

104
**SMALL BUSINESS COMPETITION FOR FEDERAL
CONTRACTS: THE IMPACT OF FEDERAL PRISON
INDUSTRIES**

Y 4. SM 1:104-83

Small Business Competition for Fede...

HEARING

BEFORE THE

**COMMITTEE ON SMALL BUSINESS
HOUSE OF REPRESENTATIVES**

ONE HUNDRED FOURTH CONGRESS

SECOND SESSION

WASHINGTON, DC, JUNE 27, 1996

Printed for the use of the Committee on Small Business

Serial No. 104-83



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SMALL BUSINESS COMPETITION FOR FEDERAL CONTRACTS: THE IMPACT OF FEDERAL PRISON INDUSTRIES

THURSDAY, JUNE 27, 1996

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
Washington, DC.

The Committee met, pursuant to notice, at 10:01 a.m., in room 2359, Rayburn House Office Building, the Honorable Jan Meyers (Chair of the Committee), presiding.

Chair MEYERS. Good morning. Our hearing today will focus upon the problems that small businesses face in competing against Federal Prison Industries for Federal contract opportunities.

From paper clips, clothing, and furniture to major weapon systems such as the B-2 bomber, the Federal Agencies spend some \$200 billion a year for goods and services.

Since the creation of this Committee in 1942, insuring that small businesses have a fair opportunity to participate in the Federal procurement system has been an important piece of our jurisdictional interest. We serve as a forum and advocate for small businesses who are not as well equipped to represent their interests in Congress and within the executive branch as are large corporations. We are particularly sensitive to any charges of unfair competition for Federal contracts.

Small business owners and employees are anxious about job security. Given that small business plays a major role in creating jobs, fueling the engine of technological innovation, and fostering economic growth, it's vital that the small business perspective be represented at the table when important policy questions are deliberated on and decided. I consider that representation to be a big part of the Small Business Committee's job.

Federal Prison Industries, also known by its trade name, UNICOR, is a Government-owned corporation sponsored by the Department of Justice's Bureau of Prisons. FPI manages a chain of manufacturing facilities located within correctional institutions operated by the Bureau. Established by statute in 1934, FPI produces 85 different products and sold some \$392 million worth of goods and services to the Federal Government in 1994. That ranks it 54th among the "Top 100 Federal Contractors," it's ahead of Motorola, Chrysler, and Xerox.

Under the governmentwide Federal Acquisition Regulation, FPI has been designated as a "required source of supply" for Federal Government purchasing. Simply put, Agencies must buy what FPI

sells or be granted a waiver by FPI. In essence, this status gives FPI a superpreference in Government contracting, short circuiting the procurement process and depriving private sector firms of any opportunity to compete.

With the growth in the Federal prison population, FPI plans to expand its sales so that it employs approximately 25 percent of the ever-growing prison population. Understandably, many small businesses that see their Government sales evaporate into the mist of sole-source awards to FPI are outraged.

Over a year ago, small business representatives successfully persuaded Vice President Gore's National Performance Review to recommend that FPI's status as a mandatory source be eliminated and that FPI be required to compete commercially for Federal business. At the 1995 White House Conference on Small Business, delegates ranked number 14 a recommendation that Government entities be curtailed from competing unfairly with small firms. I think it puts it into some perspective when you realize that the White House Conference starts out with some 300 recommendations, and this was number 14.

Congressman Hoekstra and I have developed a legislative proposal to implement these recommendations. The bill would eliminate the mandatory source designation, limit FPI's reasonable share of a market to 20 percent of Federal purchases of a particular product, and require it to perform its contractual obligations to the Government just like any other supplier. So far, some 24 Members have joined as cosponsors.

I do not challenge FPI's mission of providing inmate rehabilitation and combating idleness. I believe our fair competition proposal strikes the right balance between the need for prison jobs and the threat to jobs in the private sector. It is supported by a broad based Competition in Contracting Act Coalition and several small business associations.

In previous testimony before Congress, FPI has consistently asserted that it makes quality products and delivers them on time at fair prices. Given that prison laborers are paid less than half the minimum wage, why can't FPI compete?

We have asked Steve Schwalb, FPI's CEO, why they believe the "mandatory source" designation is essential. Our other witnesses are from small businesses, and will share their firsthand experiences with FPI competition, as well as the solutions offered by the bill.

In past hearings, I have found it constructive to impanel a representative from the executive branch with small business witnesses and conduct a dialogue with Committee members.

I want to thank Steve Schwalb for his willingness to participate in this kind of forum this morning. I also want to thank all our small business witnesses who have come from all across the country. The reason I'm particularly thanking Mr. Schwalb is because, formally we used to have — I don't mean in this Committee, but in all committees — the Government witness come and testify and walk out the door and then the small business people would testify, and there was never any interchange or dialogue. I think it's — both sides learn, and Congress learns a lot more from it with this kind of a setting.

This Committee is not the committee of jurisdiction for the legislative proposal. The Judiciary Committee is. We will make a record of this hearing and provide it to the Judiciary Committee and other interested Members. There is similar companion legislation which has been introduced in the Senate by Senators Carl Levin and Spencer Abraham. I believe we will see progress on this issue in this session of Congress.

I would like to mention that we have some guests at this Committee meeting who are not normally members of the Small Business Committee. We are very glad to have them here, and, undoubtedly, they will have a comment to make at the time that they are recognized for questioning. I also will say that some of them have submitted statements for the record.

I would like to further mention that sadly we had the funeral of one of our Members this morning, Representative Bill Emerson from Missouri died this week. His funeral is today, and so we have some members of our Committee who are at that funeral. We are all thinking of Bill this morning.

At this point in time, I would like to recognize the Ranking Member of the Committee, Mr. John LaFalce from New York.

Mr. LAFALCE. Thank you very much, Madam Chair. Let me join with you and your remarks about our late and beloved colleague, Congressman Emerson. Anyone who knew Bill loved him dearly.

I think it was last Thursday or Friday that we were chatting with him on the floor of the U.S. House of Representatives. It really seems unusual when you're working with someone. You know he has problems, but you think somehow they're behind you — behind him. Then you find out a day or two later the person that was on the floor talking with you is deceased, and so a great many of — most of our colleagues are attending those funeral services.

For them and all members of the Committee, Madam Chair, I'd like to ask unanimous consent that they can insert whatever comments they'd like to make into the record.

Chair MEYERS. Without objection, so ordered.

Mr. LAFALCE. Thank you. Additionally, Madam Chair, I'd like to thank you for holding this hearing on the impact of Federal Prison Industries on procurement opportunities for small businesses. This is a long-standing issue, and it's received the attention of this Committee in the past. It certainly deserves our continuing attention.

FPI, in my judgment, has a very worthwhile mandate, and it's a challenging mandate. It's to keep Federal inmates from being idle and restless and to provide them with job skills that may help keep them from returning to prison. At the same time, however, like in everything else under the sun, FPI's Federal procurement preference, which amounts to a virtual lock at any contracts it wants to have and can perform understandably concerns private sector small businesses who find it difficult to even get a chance to compete for that work. Full and open competition and effective prison work and training programs are both legitimate, both desirable public policy. The problem is blending the two, reconciling the two given the unique circumstances under which FPI operates its factories. That's the basic question. I don't think we should call for the elimination of FPI. I would adamantly oppose that. The question is how can we reconcile these competing demands?

I look forward to hearing the testimony of the representative from Federal Prison Industries in the second panel, particularly his views on how UNICOR would fair under changes such as those proposed in Chairman Meyers' bill; and I also look forward to listening to you, the small business witnesses, especially if you are to give me your suggestions or your reforms that you think would foster fair competition. Also, recognizing the necessity of a program such as FPI and in the clear differences between the Prison Industries in years. Madam Chair, I thank you.

Chair MEYERS. Thank you very much, Mr. LaFalce. Without objection all other Members who would like to submit an opening statement for the record, we would be happy to put that in the record.

Our witnesses this morning are Mr. Schwalb and five representatives of the small business community.

We will start with Mr. Schwalb. We will give Mr. Schwalb 15 minutes since he's seriously outnumbered at the table, and then each of the small business representatives we have asked to speak for 5 minutes. When the light turns red, don't feel like you have to stop in the middle of a sentence, but it means please conclude your remarks as soon as you can easily.

So, Mr. Schwalb, we will start with you. Mr. Schwalb, is the Chief Operating Officer of Federal Prison Industries and Assistant Director for Industries, Education and Vocational Training with the Federal Bureau of Prisons, the Department of Justice. Mr. Schwalb.

TESTIMONY OF STEVE B. SCHWALB, CHIEF OPERATING OFFICER, FEDERAL PRISON INDUSTRIES, AND ASSISTANT DIRECTOR FOR INDUSTRIES, EDUCATION AND VOCATIONAL TRAINING, FEDERAL BUREAU FOR PRISONS, DEPARTMENT OF JUSTICE

Mr. SCHWALB. Good morning. Thank you, Madam Chair. I appreciate the opportunity to appear before you, and I think the forum you have established is a very excellent one. In the interest of time, if you don't mind, I will summarize my remarks, because I've submitted my statement for the record.

Let me say for the record, that I want to note that this morning my views I'm expressing are those of the Justice Department and not necessarily those of the administration. The administration's position on this legislation is currently under review.

With regard to our relationship with this private sector in small business, we believe in FPI that, overall, our relationship with the community is positive. All of our sales dollars that we generate are returned in one form or another to the private sector, many of those, to small businesses.

Through our procurements, we support the employment of literally thousands of civilians and, we're told, thousands of individual companies. Again, many of which are small businesses. We are very sensitive to the impact on — our presence has on small business.

Chair MEYERS. Mr. Schwalb, you may want to get a little closer to the microphone. They are voice activated. Those in the back row have trouble hearing you.

Mr. SCHWALB. Thank you. We're very sincere to the impact we have on small business. In fact, the current Chairman of our Presidentially appointed Board of Directors is a small businessman. In fact, a person who was just recently recognized by the Small Business Administration as Small Business Person of the year for the State of Colorado in 1996. So, he brings to the board the familiarity with the small business community and the sensitivity that FPI must display in this relationship.

I should also mention that for the second year in a row, the Justice Department has recognized Federal Prison Industries for having the highest rate of utilization of small business in its procurements that we procure of any component in the Justice Department. This last year, for example, in 1995, 56 percent of our procurements were to small businesses.

As you mentioned, Madam Chair, we are component of the Bureau of Prisons, and the mission we carry out is in support of the very challenging mission the Bureau of Prisons faces. The Bureau of Prisons is an Agency — one of the few Agencies in Government that has virtually no discretion over its day-to-day mandate. They don't determine the number of inmates who are sent, they don't determine when inmates are released, and they don't determine how long they stay.

As you know, the increase in population has been a significant factor for the Bureau of Prisons and Congress has supported the Bureau with the appropriation of money to build new prisons. There are almost 20 prisons currently under construction or design, and the population shows a relentless rise in the future.

We're also seeing that the inmate population that's being sent to us is increasingly volatile, and it is noted that we had a series of nationwide disturbances in October, which required us to lock down the entire Federal system for the first time in our history to manage the inmates; and we believe that our role in helping manage the Bureau directly relates to both the safety of the staff who work in those prisons and, equally important, the safety of the communities which host our Bureau — our prison facilities.

The Bureau has long considered FPI its most important correctional program, and I want to emphasize that although the dilemma that we face is continued growth, the growth is driven strictly by the inmate population levels. We obviously have no shareholders. We're not interested in high rates of return. We're merely trying to generate sufficient jobs to employ inmates.

I should also mention though as a sensitivity to the impact we have, over the years the number of inmates, the percentage of inmates in our population employed in Prison Industries has steadily declined. As of today, it's about 18 percent of the entire Federal prison population employed in Prison Industries. The rest of inmates are employed in institution maintenance jobs, they're going to educational and vocational programs, drug treatment, and so on; but, again, we try to minimize the impact the UNICOR Prison Industries has by employing as few inmates as we think is necessary to manage the institution.

We also believe very strongly that FPI is a program that works as the Congress intended it to. We do not receive any appropri-

tions for our operations. We generate all of our income off of sales to Federal Agencies. Sales that they would make in our absence.

The study recently conducted on the impact of Prison Industries following 7,000 inmates over a long period of time, as long as 12 years, indicates that inmates who are involved in vocational training programs and Prison Industries' work have a substantially greater likelihood of being successfully employed upon release, earning higher wages and remaining crime free.

We are also constantly diversifying our product line in an attempt to be — minimizing our impact on any one industry. We currently provide the Federal Government over a 150 different products and services, and we continue to diversify those adding new ones every year.

Madam Chair, I've passed out to the Committee a chart which is a list of, we believe, of our impact on the private sector, and it reflects some of the considerations the Board of Directors takes into consideration. This is only associated with Systems Furniture but, again, I think the general trend can be applied with some degree of accuracy across a variety of products.

What you see on this chart is the data that was presented to the board, much of which is derived from General Services Administration, Federal Procurement Data Center, and the Industry itself; and you'll see that the board's recent approval of our Systems Furniture is shown on the far left bar.

They authorized us to increase our sales, annual sales, about \$60 million from \$70½ to a \$130 million. Those are annual sales figures from the period 1995 to 2000. Now, during that same period of time, the right two bars show that private sector sales to the Federal Government during that same period of time are going to rise approximately \$96 million in sales.

So our market share went up slightly, but the reality is because this so-called "pie" is getting bigger, the sales value of the private sector's share of the market through the year 2000 is increasing at an even faster rate, or is projected to increase rather at an even faster rate than FPI's sales increase. Of course, as you see on the right-hand chart, the domestic market is growing very substantially as well; and FPI, by law, is confined only to the Federal market.

So it is fair to say, I believe, that during this period of time, in this particular product that the sales by the Federal Prison Industries to the Government are going to increase, but the sales by the private sector to the Federal Government are going to increase even faster; and the private sector will have the entire domestic market to take advantage of as well.

Now, obviously I don't want to overstate the case. This is an example of Systems Furniture, but I think it's fair to say that generally the same condition applies in the different studies that have been presented to the board and the different decisions, and the board takes into consideration as they are required to under statute, the comparison of the domestic market, which we don't have access to, and the availability in the Federal market to support both the private sector and the Prison Industries.

We also take very seriously the mandatory source, in terms of not abusing it. We are very liberal with waivers when they are re-

requested. I can tell you that during the first 7 months of this fiscal year, as an example, we've granted about 90 percent of all the waivers requested; and in furniture, specifically across all furniture lines, we granted 98 percent of waivers requested.

So we try to be very liberal and reasonable with customers who come to us for any number of reasons, because of price issues, because of delivery, because of technical specifications, or other reasons that they believe our product won't meet their needs. We try to be very reasonable on granting waivers so they can procure from the private sector. But we do believe the mandatory source which was intended as a steady contact between us and Federal Agencies for a smooth flow of work for this inmate population is essential to our continued success. We believe the statute as proposed would reek havoc on our ability to maintain a steady flow, would ultimately result in a reduction of employment in Prison Industries and an increase in inmate idleness. It also would eliminate, we believe, our ability to attract partners, private sector partners.

Most of our products are not products that we design and make from scratch. They are products that we partner with a private sector for their design and research and manufacturing expertise; and then we collaborate to integrate that production, using inmate labor, whereas in the private sector it might be done with a mechanical or automated means.

If we didn't have the mandatory source, there would be no incentive for the private sector companies to partner with us, and most of our product lines would be virtually impossible for us to produce independently.

In summary, Madam Chair, we believe that the ability of the Bureau of Prisons to manage its increasing population depends on the continuing viability of FPI, and we believe that would be affected severely by the elimination of our mandatory source. We believe that Congress has recognized for over 60 years that there's a direct relationship between the volume of inmates coming our direction and the need for them to have a steady supply of work for job training and skills in Prison Industries. We really believe that, given the vast resources that Congress is committing to addressing the criminal justice response to crime, both in the Bureau Prisons and other Justice Department components, that eliminating the mandatory source in the face of that is not only contradictory, but potentially jeopardizes the viability of the Bureau of Prisons. Thank you, Madam Chair. I'd be happy to answer any questions.

Chair MEYERS. Thank you very much, Mr. Schwalb. Let me take just a minute to greet the visitors to our Committee. Mr. Hoekstra of Michigan worked with me in developing this bill. Mr. Collins of Georgia made an enormous contribution. I think Mr. Petri of Wisconsin has some great concerns, and I know that Mr. Hilleary, who is a member of this Committee, has some strong interest in this issue.

Our next witness will be Mr. Rick Francis, and he is Vice President of Administration at Tennessee Apparel, Tullahoma, Tennessee.

[Mr. Schwalb's statement may be found in the appendix.]

TESTIMONY OF RICK FRANCIS, VICE PRESIDENT OF ADMINISTRATION, TENNESSEE APPAREL, TULLAHOMA, TENNESSEE

Mr. FRANCIS. Thank you, Madam Chairman. Tennessee Apparel is a small business located in southeastern Tennessee, and we employ approximately 430 people in a cut and sew operation. We've been in business since 1901 and have been manufacturing military uniforms for the past 39 years. Our military products includes men's dress trousers, women's slacks, extreme-cold-weather parkas and trousers. During the past 39 years we've produced over 42 million dress trousers, 800,000 ECWCS trousers, and 600,000 ECWCS parkas. Our company is recognized as one of the leading suppliers of military clothing with approximately 95 percent of our sales to the Defense Personnel Support Center, the US Army Soldier System Command, and the Army/Air Force Exchange Service. Certainly, the record of our company and Government sales qualifies us as an interested party in this hearing.

However, today I'm appearing here on behalf of the American Apparel Manufacturers Association. We appreciate the opportunity to be heard and to express our concerns about the continuing incursion into the Government contracting apparel market. We would also like to thank you, Madam Chairman, for introducing legislation to control the growth of the Federal Prison Industry.

The AAMA and its members recognize the important task that FPI faces to create meaningful jobs for the prison population. But we feel strongly that the need to put prisoners to work is not worth jeopardizing the go to war mobilization capacity of the United States. It has been stated many times by officials that it's imperative that the United States have a warm industrial base to be able to meet future mobilization efforts. Your recognition of this need and protection of it is of utmost importance to the security of our country.

I'd like to provide you with some background on the AAMA, the apparel industry in general, and the Government Contracts Committee of the AAMA.

The AAMA is a national trade association for domestic apparel industry. Our members produce about two-thirds of the garments manufactured in the United States, and we're located in virtually every State. The apparel industry employ some 895,000 men and women.

Our Government Contracts Committee is composed of 76 manufacturers and supplier companies. The majority of the garments contracted for by the Defense Personnel Support Center, which is part of the DLA, are manufactured by our members. The majority of the members — of the Government Contracts Committee are small businesses. This is not unusual in our industry. Approximately one-half of AAMA members are small business. The proponents of small business is even larger among companies that do not belong to the AAMA.

The reason we're here today is to discuss with you the advisability of FPI's continued expansion into military clothing production. As an example, we are particularly concerned that because of a decision made by the FPI Board of Directors in December 1995; by the year 2000, FPI will be manufacturing nearly 40 percent of the work clothing and 25 percent of the protective clothing for our sol-

diers in the field. Work clothing is a loosely defined term which includes anything from shirts to battle dress uniforms. Protective clothing items from impermeable aprons, explosives handlers coveralls, to extreme-cold-weather uniforms.

FPI began manufacturing work clothing in 1986 with \$2.6 million in sales. By 1994, they had \$10.8 million in sales, which is a 315 percent increase or fourfold increase in 7 years. By the year 2000, they expect sales of \$42 million, which would be another fourfold increase. So, from 1986 until 2000, FPI will have experienced an annual 24 percent growth in the work clothing market.

This works out to be 40 percent of the Federal market of work clothing by the year 2000. When your sales increase at that rate, and I'd like to note that FPI calls this a gradual increase, someone has to pay. In this case, it is the American companies and hard-working taxpaying workers they employ whose production will be taken away so that prisoners can work. We at Tennessee Apparel would love to be able to say that we have averaged an annual increase in production of 24 percent. I don't know of any companies, particularly small businesses, except maybe some computer-related industries that can make that statement.

It is very important to point out that FPI states their sales dollars and not units. So, by the year 2000, FPI's goal of \$60 million in protective clothing — what if there's only \$80 million worth of business? How many American workers would be affected? Is someone really going to say, "Hold on, FPI, you're only supposed to have 25 percent of the market"?

Madam Chairman, I'd like to state that we support FPI's efforts to employ prisoners. But we would make the case that with FPI's significant and continued expansion of production, the go to war mobilization capacity and continued expansion of production in the United States is being jeopardized and jobs are being stolen from women supporting families.

We are gravely concerned — and it should be noted that DPSC has stated that UNICOR has not had the flexibility to meet surge demands. That's FPI's customers speaking. DPSC also stated that the private sector is much better in surge production when called upon, but in order to be effective, there has to be actual production occurring in which to expand. Remember, Government Agencies are not given a choice when FPI wants to take a product. If FPI wants it, they get it.

Quite frankly, we feel no one entity should be a sole source. Not a private company, not the Federal Prison Industry. During a national emergency, our country needs production capacity. The only way to have it is to have multiple companies producing at peacetime, so that the necessary production capacity is available to expand and expand quickly.

Further, the trend for businesses is that the industry will be the point of stocking inventory, not DLA warehouses. So, when one organization has it all, DOD must assure itself that not only can its organization make the item, expand production as needed, but also have the capacity to store it. This is not an insignificant task.

Ladies and gentlemen, may I review some statistics with you on the apparel industry which show just who will be affected when ap-

parel plants are closed as a result of prisoners being employed and taking more work from an already besieged industry.

The production work force in the apparel industry today is 703,000 employees, of which 92 percent or 644,000 were women. Of 644,000 women employed in the apparel industry, 15 percent, or 97,000, are single parent heads of households.

Chair MEYERS. I wonder, Mr. Francis, if you could conclude your remarks as soon as you can. Our light seems to be malfunctioning for some reason. So——

Mr. FRANCIS. I turned it off on purpose.

Chair MEYERS. We do have your printed statement——

Mr. FRANCIS. You do have my printed statement.

Chair MEYERS [continuing]. and the statistics are good. So, I don't want to rush you, but do conclude.

Mr. FRANCIS. In closing, all we, as apparel manufacturers, are asking is that FPI's mandatory source requirement be removed and that they remain at 1994 manufacturing levels. If the improved increases go into effect, companies will be devastated by the loss of production. Also, to lessen the impact of FPI's involvement in Government contracting, the prison system could subcontract some of the work it has to current private sector suppliers.

Our company has been successful in supplying cut parts to one prison facility. The cutting operation presents some problems to the prison facility. It requires a large capital investment in equipment and space, and the labor generated does not employee that many inmates, and the use of cutting blades presents a security problem for the guards as well as other inmates. By working with the current private sector, both parties could benefit.

We would also request that a GAO Report be done on FPI's operation. What is it costing American citizens to employee prisoners, and what happens when Federal prisons are locked down? No one, so far, has been able to answer those questions. Thank you.

Chair MEYERS. Thank you very much, Mr. Francis. Our next witness is Sharon Krell. She is Manager of Access Products of Colorado Springs, Colorado. You can see that our witnesses have come from all over the country, and we're very glad to have you here. Ms. Krell.

[Mr. Francis' statement may be found in the appendix.]

TESTIMONY OF SHARON KRELL, MANAGER, ACCESS PRODUCTS, COLORADO SPRINGS, COLORADO

Ms. KRELL. Madam Chair, members of the Committee, thank you for the opportunity to speak at this hearing. I was invited because I wrote a letter to Chairwoman Meyers regarding the impact of Prison Industries on my industry, which is the remanufacture of toner cartridges for laser printers.

I own a very small company in Colorado Springs. We employ 20 individuals. We supplied remanufactured toner cartridges to the U.S. Air Force Academy. They were very satisfied with our product and our service, which is extensive. When Prison Industries contacted the Academy regarding purchasing their cartridges the Academy chose to deal with them solely. This decision was based on Federal Acquisition Regulations mandating purchase from Prison Industries.

In an effort to continue our business with the Academy, we proposed a program which would combine cartridge purchase with printer maintenance, which we estimated could save the Academy at least \$50,000 a year. We were asked to submit a formal proposal for this program, which we did. This proposal was accepted and then canceled by Contracting.

We requested and were granted a meeting with the procurement officials. We were told that our proposal was unacceptable because procurement regulations require them to purchase from GSA and Prison Industries: That we were the only vendor providing this program to their knowledge and accepting it would be unfair to other suppliers; that our proposal combined a supply and a maintenance item which were not administered by the same office; and that because of the time and effort required to administer a bid process, it is easier to deal with Prison Industries.

We then asked that the Academy bid out 50 percent of their cartridge needs to small business as they are allowed to do based on a commitment given our industry by Prison Industries. We were told that the Academy was acting in accordance with Federal Acquisition Regulations. When Prison Industries cannot provide a cartridge or meet their demand, the Academy will place an order via their automated bid system on a rotation basis with an outside vendor. They saw no need to make any further efforts on our behalf.

In 1994, we averaged \$3,700 a month in sales to the Academy. This supported the employment of one production individual. Through 1995 and January 1996, we averaged \$1,600 a month. Since January, we have had no sales to the Academy. Fortunately, we were able to replace these lost sales and save one job.

Based upon our prior experience at the Academy, we feel that competitive bidding for cartridges would save the Academy at least \$25,000 annually. However, price differences are not considered in determining whether Prison Industries should be used for procurement purposes, unless the buying Agency determines that such differences warrant seeking a waiver.

I have pursued doing business with the Government via EDI. The Department of Defense has hired consultants to tour the country with the aim of contacting small businesses to assist us in the use of EDI for our benefit. In reviewing the database, I found several requests for remanufactured toner cartridges, one from a local Air Force base. We contacted the buyer and found he was told by Prison Industries to pull this bid from EDI, as it was a required purchase from Prison Industries.

If the Department of Defense wants to do business with companies such as mine, why then is Prison Industries monitoring EDI bids and contacting Agencies to tell them these items cannot be posted?

We now review EDI daily for bidding opportunities. We see many more requests for new OEM cartridges than remanufactured cartridges. Why are Agencies seeking to spend more money than necessary for this item? One answer is that they are dissatisfied with the quality of the Prison Industries cartridges, and they are unaware of or unwilling to engage in the waiver process. Our industry

is losing this business, and I will remind you that OEM cartridges are not made in America.

We have been told that Prison Industry seeks only 26 percent of the Federal market for remanufactured toner cartridges. Once this level is reached, all work beyond this level will be waived; that Prison Industries will automatically waive up to 50 percent of an Agency's requirement upon request; and finally, that an Agency has the right to request a full waiver in cases where it believes Prison Industries cannot meet its requirements.

To my knowledge, none of this information is formally documented or provided to anyone who has a need to know. Is there any involvement with the Office of Federal Procurement Policy or the SBA to control the reach of Prison Industries as it affects small business? Should Prison Industries go after business currently held by a small company which that company may need to survive financially and when that company can provide the same product at a better price? Is it ethical for an Agency to be able to pull a contract from a small business before the term is up simply because Prison Industries has contacted them?

Prison rehabilitation is a necessary and worthwhile objective, but the need for it must be balanced against the need for small companies to be able to compete for Federal business.

There should be room within the Federal marketplace for Prison Industries and small business to co-exist. Most of us cannot afford to develop extensive marketing materials and websites or hold our own trade shows to market our product to Government buyers. Prison Industries is a large business with a mandated customer base. Why is there a reluctance to open up this market for competitive bidding?

I hope that this issue is addressed fairly, as it affects thousands of small businesses who currently cannot compete against Prison Industries. The millions of jobs created over the last 4 years have not been in large companies. They have been in businesses such as mine. As a small business owner, I want the right to compete.

Madam Chair, I have other statements from other recharges here that I'd like to submit as part of the record. Thank you.

Chair MEYERS. Thank you very much for being here, Ms. Krell. Our next witness is James Riley, and he's President of Omni International Incorporated, Vernon, Alabama.

[Ms. Krell's statement may be found in the appendix.]

TESTIMONY OF JAMES L. RILEY, PRESIDENT, OMNI INTERNATIONAL INCORPORATED, VERNON, ALABAMA

Mr. RILEY. Thank you, Madam Chair. Madam Chair and members of the Committee, my name is Jim Riley. I'm the President and Co-owner of Omni International of Vernon, Alabama. Omni is a small business that is in existence today because of the SBA for which we are very appreciative. We manufacture both office and dormitory and quarters furniture or D&Q furniture as we refer to it. I appreciate the opportunity to speak not only for Omni but also for two organizations that Omni has joined to protect its interest: BIFMA International and QFMA.

We have been hurt because FPI has exploited its mandatory preference and has repeatedly violated a statute that only requires

that FPI obtain its own board's approval of any significant expansion. I speak unfortunately from personal experience.

QFMA's members, whose very existence is threatened, retained legal counsel when FPI announced its intention to expand its share of the dorm and quarters market from 25 percent to 35 percent. Counsel discovered that FPI had increased its sales of D&Q furniture by 138 percent from \$10 to \$24 million, from 1991 to 1993, all illegally. FPI had never studied the impact of its proposed expansions on private industry nor sought board approval as Title 18 U.S.C. Section 4122 and its own regulations clearly require.

What FPI finally and grudgingly admitted in its January 26, 1996, "White Paper" should shock this Committee.

First, FPI broke the law when it increased its D&Q production in 1992 and 1993 by 138 percent without prior board approval.

Second, FPI broke the law when it converted its Sheridan, Oregon, factory to produce dorm and quarters furniture in 1991 without board approval. Last year, this factory produced \$6.6 million in dorm and quarters furniture. At no time has FPI's Board approved Sheridan's making such furniture.

Third, FPI declined to seek board approval of the conversion of its Talladega Plant to D&Q production, despite a strong staff warning that failure to do so would violate FPI's regulations.

Fourth, from 1988 through fiscal year 1995, FPI, an arm of the Department of Justice, made no effort, ladies and gentlemen, to implement the procedures necessary to collect, process, and report the data needed to comply with Section 4122 and its own regulations. It has thumbed its nose at Congress' directives.

Fifth, FPI delayed its most recent significant expansion board hearings until Congress was in recess in December 1995. I would like to read you a brief quote from a March 1995 memorandum that was discussed by FPI's top management.

I quote, "It may be more prudent to plan the announcement for hearings in November/December timeframe during a Congressional recess, rather than near the end of the session when a number of adverse bills/amendments could be pushed through unnoticed by private industry in reaction to our proposed expansion."

That quote shows the lengths to which FPI has gone to keep Congress in the dark.

Even though FPI has grudgingly conceded it broke the law consistently for 7 years and unlawfully deprived QFMA members of more than \$44.5 million of sales, FPI is still refusing to make amends. QFMA has made a compelling case in court. But if the Court is swayed by FPI's protestations that it had to ignore Congress's mandate to keep prisoners employed, QFMA members may well never be made whole.

We have been hurt by FPI in other ways as well. For example, it has been FPI's practice to delay granting waivers until the fourth quarter of the year. You can imagine the extreme hardship that that creates for a small company like Omni. Omni is committed to keeping our employees working all year. FPI has also used in appropriate strong arm tactics on our military base customers, demanding that they hand over Omni scale drawings and detailed design plans to FPI simply because FPI is the mandatory source. The worst blow for Omni came when FPI actually copied features of our

line and took \$3.5 million in new overseas orders that we had anticipated receiving. This was the final blow. This is when we had to layoff 50 loyal men and women, most of whom are heads of households. Under current law, we cannot effectively protest such actions by FPI. Our only recourse is costly litigation.

Finally, Madam Chair, I would ask your permission to have the extensive documents, Congressional correspondence, and court pleadings that support this statement be made part of the record of this hearing. Thank you.

Chair MEYERS. Without objection all documents will be made a part of the record. I appreciate your testimony very much, Mr. Riley, and we'll have a chance probably for you to comment further when we get to the question period.

Our next witness is Tim Graves, Co-owner of General Engineering Services, Inc.; Forest Park, Georgia, and we're glad to have you here.

[Mr. Riley's statement may be found in the appendix.]

TESTIMONY OF TIM GRAVES, CO-OWNER, GENERAL ENGINEERING SERVICES, INC., FOREST PARK, GEORGIA

Mr. GRAVES. Thank you, ma'am. My name is Tim Graves. I'm with General Engineering Service, a small business located in Forest Park, Georgia. Our principle business line is manufacturing missile containers for the Department of Defense.

The company is, as I say, a small business; and we have received some awards such as the U.S. Small Business Administrator's Award of Excellence. GESI is also a certified supplier for a number of large prime contractors.

Last year, we learned that the Air Force intended to procure certain missile containers for the AMRAAM Program and AGM130 Program. We asked the Air Force to allow my company to bid on the contracts because we had previously manufactured the containers for the Air Force.

The contracting officer notified us that we would not be allowed to bid because the FPI had demanded that the contracts be awarded to them. The Air Force intended to award the contract to FPI. We visited the program offices at Eglin AFB and asked for relief, and the program managers there said that FPI refused to grant a waiver.

GESI felt like we had no alternative, so we filed a complaint in Federal Court against Federal Prison Industries. After spending significant monies, approximately \$50,000, we reached a settlement agreement with FPI where the FPI would agree not to pursue the container business until such time as a impact study could be performed. The FPI is in the process of performing that impact study now, and it should be concluded approximately July 22, 1996.

Our biggest concern is that the Federal Prison Industries marketing and management personnel do not strictly follow the statutory guidelines for adding new products to the approved scheduled products. They virtually ignore that. It does not appear that there's adequate control over the management of FPI to insure that it does not claim more than a reasonable share of the market.

The FPI board should be required to adhere strictly to the required reasonable share of the market, and I think the board has

to find that as 10 to 20 percent. FPI should not be allowed to exceed 20 percent of the market for a specific product as defined by the 13-digit National Stock Number.

FPI tends to group products together. They use the SIC code, and they'll take a container for a beverage and combine it with a container for a precision guided missile.

FPI should be required to account for the products manufactured based on the National Stock Number, the 13-digit code. This reporting method would be more accurate and represent the true market that the FPI's taking.

FPI should be required to compete on a level playing field with other businesses. It's very difficult for small businesses to compete with FPI because they pay approximately 66 cents an hour for their direct labor. Their lending institution is the Federal Treasury. They pay no income taxes.

Also, I believe, that there should be an independent third party to settle disputes between the FPI and small business. It could be the Small Business Administration. The SBA could be the arbitrator for disputes.

Thank you, ma'am.

Chair MEYERS. We appreciate your suggestions, and I'm sure there will be some comments and questions.

Our last witness is Roger English, Sales Manager of ADM International; Chicago, Illinois, and we're glad to have you here, Mr. English.

[Mr. Graves' statement may be found in the appendix.]

TESTIMONY OF ROGER ENGLISH, SALES MANAGER, ADM INTERNATIONAL, CHICAGO, ILLINOIS

Mr. ENGLISH. Thank you, Chair Meyers and Congressmen, for giving me this opportunity to express my thoughts concerning a matter that has been a deep and growing concern of mine for many years.

I am Roger English, an employee of ADM International, an American company, which is a member of the Quarters Furniture Manufacturing Association and the Coalition for Competition and Contracting. I will try to cut some of my talk out here, since it's already published, so that I can get under the green light.

ADM is a small business interior furnishings firm serving hotels, nursing homes, colleges, and the Federal Government and other commercial establishments. However, I am here today speaking on behalf of the many citizens who have felt intimidated, bullied, and even threatened by the action of the Federal Prison Industries over the last 15 years. I have watched FPI ignore and abuse principles that have helped make this country great. I personally have nothing to gain except the satisfaction of seeing a Government sponsored bully being made to follow the laws and rules which the rest of us must adhere to.

The Federal Prison Industries is under the control of the Department of Justice. My definition for justice is "the quality of being fair." Fairness and justice is all that I ask.

Is it justice that the Federal Acquisition Regulations have a clause which allows Federal Prison Industries to refuse a potential buyer from considering the purchase from another source even

though it is quite likely to be of a better quality and less expensive and; therefore, save the taxpayers some of their hard-earned dollars?

Is it justice that the Federal Prison Representatives should intimidate and even threaten Government employees to purchase their product?

Is it justice that the Federal Prison Industries should step on and take business away from a Disabled Vietnam Veteran, who was twice wounded fighting for our country, and give that work to criminals who have trampled on an honest citizen's rights; therefore, effectively destroying and bankrupting that hero's business which the Veteran's Administration suggested he enter? Incidentally, his product was far superior and more environmentally protective than the products being forced into Government facilities by Federal Prison Industries.

Is it justice that a small business person should — would spend months or even years assisting a Government facility in planning and determining their furnishing needs? These projects included design work, color renderings, and sometimes complete sample rooms; all at a cost of many hours of work and thousands of dollars. Then after all of their work is done, Federal Prison Industries muscles in and steals the job with not so much as offering one iota of service or assistance to the customers. Does this sound like a business transaction or a mugging?

Is it justice that Federal Prison Industries pays the cost of bringing Government employees to their factories in an effort to influence their buying decision? In addition, they also pay expenses of some Government employees to attend trade shows in entertainment centers such as San Francisco and Chicago and other cities. A private citizen or company doing the very same thing would be prosecuted, fined, and possibly sent to prison for violating our Federal Laws. Guess who by, of course the Department of Justice.

Is it justice that a law-abiding, taxpaying citizen, who may support a wife and several children, should be mugged by his Government in the guise of Federal Prison Industries by unilateral decree? Without any consideration, FPI takes a job and gives it to a convict. This convict may be in prison because he stole from the Government or, you name the crime.

Is it justice that Federal Prison Industries grab a multimillion dollar furniture job in the very design stage and refuse to consider waivers for any kind of competition? This — in spite of the fact that none of the end users want any part of Federal Prison Industries or their representatives.

We have all heard Federal Prison Industries' arguments. FPI can provide products of equal or better quality than private industry.

FPI can make delivery as promptly as private industry.

FPI can make the same product as private industry at a lower price, thereby saving the taxpayer money.

If these three statements are true, FPI would not have to have the totally unjust mandatory status clause that gives them the unilateral power to eliminate competition by dictatorial fiat. They already have a tremendous competitive advantage, since their charge is to produce high-labor intense products and private industry has to pay its workers approximately 10 times that paid by a Federal

Prison Industry. Private industry, incidentally, also pays income taxes, unemployment compensation, Social Security taxes, and on and on; while FPI is burdened with none of these costs.

I see I have the red light, so I'll get right onto the end of my statement here.

Their argument is Federal Prison Industries create jobs and gives them to convicts. Creating is the making of something that did not exist. I suggest that the proper term to use in this case is "stealing" which is the taking of something that is not yours by force or otherwise. It seems to me that the Federal Prison Industries steals jobs from the law abiding to give to the law breaker. In essence, Federal Prison Industries mugs small business people in Government purchasing offices using the mandatory clause to control the waiver system as weapons.

Federal Prison Industries is already playing on the topside of a slanted playing field. Give the hard-working taxpayer American citizen a half way chance by removing the mandatory clause and waiver system from the Federal Acquisition Rules. Thank you.

[Mr. English's statement may be found in the appendix.]

Chair MEYERS. I thank you very much, and I'm sorry for the time limitations. You have all made excellent points and suggestions and arguments, but because of competing meetings, we need to move things along. Thank you very much for being here.

I normally ask questions first. I am not going to today, because I know there are people who have a specific interest who have made it a real point to be with this Committee, and I would like to recognize first, Mr. Hilleary.

Mr. HILLEARY. Thank you, Madam Chairwoman.

I appreciate you folks coming today. I especially want to welcome Mr. Rick Francis here, a good friend of mine, who works down at Tullahoma, Tennessee. For people who don't know anything about the Fourth District, it's one of the thriving Metropolises of the District. I think barely over 20,000, that's one of the biggest towns in my district; and it kind of provides a good backdrop for part of the problem that we see with FPI. In that, every time FPI takes another big piece of their business, it really effects small towns. Because those businesses especially in the apparel industry that are still working for DPSC or different governmental Agencies, they tend to be located in very small towns. When you take another big piece of their business, it really, really affects that town. You've already got this industry effected terribly by overseas competition. All the third-world countries that are developing go to the apparel industry first. It seems like another labor intensive industry. So, anyway, Rick, thank you for coming up here—

Mr. FRANCIS. Thanks for having me.

Mr. HILLEARY [continuing]. All the other distinguished panelists.

I want to direct most of my questions, I guess, to Mr. Schwalb. There's lots of lines of questioning that we could go through here, but my time will be limited.

I was just sitting here looking at the law that's applicable to the regulations that we're talking about here. Title 18, U.S.C. Section 4122, 23, 24. I'm looking at Section 4122, specifically paragraph B-1 and B-2. It talks about no single private industry shall be forced to bear an undue burden of competition from the products of the

prison workshops. When you figure that of the — take DPSC, for example, of their sources — a lot of their sources in the apparel industry especially probably 80 plus percent of their business goes to DPSC. So — and that's for rocky reasons — with overseas competition, a lot of the nongovernmental businesses goes overseas. Also, because the red tape is so intense for working for these people, doing business with these people most small businesses don't have the overhead; and if they get into it, they got to get into it in a big way. You can't kind of half way get into it. You can't afford overhead, otherwise, to deal with the red tape. So, you've got most of their business being with DPSC or with the Government, and you all end up taking more and more of it. It does, it seems to me, have an undue burden on these businesses because of that.

But then in the second paragraph, it's even probably more damning of an indictment. It says, "Federal Prison Industries shall conduct its operation so as to produce products on an economic basis, but shall avoid capturing more than a reasonable share among Federal departments, Agencies, and institutions for any specific product." Now, it seems to me — I don't know your background, if you're ever in a private sector in a small business — but those of us who have been, a specific product is a specific product. It's not a product line. It's not a market. It's a product. This is a product. Everybody's wearing a product. It's not a market it's a product. When you take 80 percent of this product or 50 percent or 40 percent that's a lot. That's not a reasonable share, it doesn't seem to me.

Anyway, we should comment on that. How you feel like you're meeting your mandate based on the perimeters of this legislation, with your regulations taking such a big percentage of a specific product as well as meeting the mandates not being an undue burden on this industry.

Mr. SCHWALB. Sure. First of all, one of the difficulties, if you will, in implementing the statute from the beginning is that there are no further definitions of what "reasonable share" and "undue burden" mean. So, guidelines have been established and published for public comment and implemented to try to help define some of those terms. But, again, the board really is relying on some degree of subjectivity and judgment as to how much of a share of the market would be an undue burden and how much is reasonable.

The process we use calls for the study of all those factors to be done by Prison Industries, and the study to be published and comments to be received from the private sector. Then the board has a hearing which they invite the private sector to attend and talk about those very issues: The impact on their company, the impact on their industry, the definition of a specific product, which is also defined in the rules; and it relates a lot to the way the Census Bureau categorizes specific products for the Government. Then the board has to weigh all those issues and try to come to a decision, but I would agree with you that some companies will feel that our burden is greater than it should be, and it's one of those issues, I suppose, where there's room for two reasonable people to disagree on, and that's why the board asks for input as to the industries reaction to our proposed growth level. We do try whenever possible to work with the Federal customer as well.

Let me use DPSC as an example. They came to us last year and said, because of the concern mentioned by one of the witnesses about having a warm industrial base and not having anyone produce or whether it's a mandatory source such as us or the blind and handicapped who also have mandatory source production for DPSC or a private sector company that, "No one entity would have too large a share, because they need the ability to ramp up in case of demand." we have agreed with them not to take any larger share than they feel is reasonable, because we believe there's alternative products they'd like to have us make instead.

On go to war items, which they've asked us to focus on, we've agreed to limit the amount of the market share at the customer's request, and they are going to maximize the base of industrial operations to be able to have a surge capacity. But we have been successful when a couple of customers have asked us to surge, in fact, we've recently been awarded in the last few years by the military. They've given us awards for the ability to respond quickly when customers ask for that.

Mr. HILLEARY. Let me just say, in concluding, Madam Chairwoman, that that the defense needs are another whole area of inquiry that I won't have time to go into, but you mention that reasonable people can differ from what undue burden means.

My concern is just that these folks have no recourse if they differ with you. I mean, that's just it. There's no place they can go except for to the people's court, which is the Congress, and I feel like we're probably going to have to deal with that because I don't think they have been getting their day in court otherwise. But thank you for coming.

Chair MEYERS. I think that's a very strong point, Mr. Hilleary, you just made. Mr. Sisisky.

Mr. SISISKY. Thank you, Madam Chairman. I thank all of you for being here today. My colleague talked about prisons being in small towns, very true. But I tell you they make a heck of an impact in a small town and the economy. Also, they make a very big — they pay well. We have a real problem here because I think the problem is prisons are growing at such a large rate and what to do with these prisons and their idle time.

I know it's a problem. I have a Federal Prison in Virginia in Petersburg, and I visit it quite often, and I can see. I'm worried about the guards in there. With idle time, you know, it's pretty bad.

The other problem that I see is the downsizing of the Defense Department. I'm on the House Armed Services Committee — the National Security Committee now, excuse me — and believe me, I know what downsizing is. I mean, we are downsizing. The whole Government to a degree is downsizing now.

Mr. Francis, you talked about how this bothers middle-aged women, and it is true. I voted against NAFTA and MFN for China because of these — looking in the eyes of these women. Your problem is not with the Federal Prisons. Your problem is more with trade, in my opinion, in the apparel industry.

Mr. Riley, I thought it very interesting how you charge, and I would like to hear the answer, how they took your business illegally.

Did you take his business illegally? Because the Justice Department, we can bring you out in handcuffs. I mean, take you out. But tell me about the illegality of it. He makes a very pertinent charge there that the appeal process was not there, that you acted illegally. Do you know about this case?

Mr. SCHWALB. I'm very familiar about this situation. Let me just say two things. First of all, there is, as Paul Harvey would say, "A lot more to the rest of the story." But let me also say that the matter is under litigation right now, and it is the standard policy of the Justice Department to not comment on pending litigation. As the witness indicated, the case is currently under consideration by the Federal District Court, and I'm really not prepared to comment any further.

Mr. SISISKY. I'm used to that.

Mr. SCHWALB. I wish I could comment further, but I can't.

Mr. SISISKY. I understand. Mr. English, you really laid it on the line about the Department of Justice being a big bully. Are you a big bully?

Mr. SCHWALB. Well, we don't think we are. Again, the Board of Directors, as composed and appointed by the President, represents a variety of interests. Organized labor is represented on the board, consumers, and retailers. By statute, their specific post, private industry—

Chair MEYERS. Is small business specifically represented on the board?

Mr. SCHWALB. No, it is not, madam, just private industries specifically represented and consumers and retailers and organized labor, the Defense Department, Agricultural, and the Justice Department are the six statutory—

Mr. SISISKY. Are they hearing from companies like Mr. Riley? Does your board hear—

Mr. SCHWALB. Definitely. They hear both — the companies write to them individually on a frequent occasion and they—

Mr. SISISKY. They do what?

Mr. SCHWALB. They write to them — the board members individually, and they also appear at the board hearings when the board is conducting an analysis of these proposed growth studies.

Mr. SISISKY. I want you to understand I believe in Prison Industries, I really do. I know that this thing can blow up at any time, and I think the Federal Government does a much better job than the State governments as it relates to that. But I do worry about the bullying aspect and the illegality of it. You know, I think it's pretty smart to have meetings when Congress is not in session. I mean, that's what I would do, if I was on that board. I was really thrilled about what he said there, quoting from a letter, because that shows ingenuity and smartness. But what scares me—

Chair MEYERS. Don't encourage him.

Mr. SISISKY. What was that?

Chair MEYERS. I said, "Don't encourage him, Mr. Sisisky."

Mr. SISISKY. No, I mean that sincerely. That's very clever. Being on your side, you intimidate. If you do intimidate, and that's what I've heard today, the Small Business Committee in Congress will react in a negative way, which scares me. I mean, that's the message I hope you take back to your board. Congress does not always

do the smartest thing, and most of the time when we react to things like this, we do it wrong. So, you got a problem. Cause I don't want Congress to do anything wrong.

I'm not thrilled about your bill, Madam Chairman, I'm really not. But I'm going to tell you something, listening to some of this testimony here — and I know we hear one side of the story, I'm not naive to that. I used to deal with the Federal Prison when I was in business, did a lot of business with them, too. I sold soft drinks. I mean, they drank a lot of soft drinks, I tell you, and that's why I was thrilled with Prison Industries. Because the industry said they could drink soft drinks. But the message that I want to tell you very quickly, because I have another meeting to go to, is "be very careful here," because Congress will react, and the reaction may not be the best for our prison system. We still have to be concerned about that, because it is good for our small business community, too. Thank you, Madam Chairman.

Chair MEYERS. Thank you very much, Mr. Sisisky. Our next witness — I mean our next questioner — and I will recognize the Congressmen in order of their appearances. Mr. Collins from Georgia.

Mr. COLLINS. Thank you, Madam Chairman. I appreciate you letting me attend another Small Business Committee meeting. I was on this Committee my first term in Congress, and it was a real pleasure to work with you. I want to thank Tim Graves from Forest Park for bringing this matter to my attention and it is a grave matter because of the impact that it can have on the constituency, on the very district, and on their jobs.

Mr. Schwalb, how long have you been the CEO of FPI or UNICOR?

Mr. SCHWALB. Since December 1993.

Mr. COLLINS. What's your background prior to that?

Mr. SCHWALB. I'm a Career Corrections Manager with the Bureau. I've been with the Bureau about 23 years.

Mr. COLLINS. What's your annual salary?

Mr. SCHWALB. A \$110,000 give or take.

Mr. COLLINS. What is your — give or take—

Mr. SCHWALB. I mean, I don't remember the exact dollar.

Mr. COLLINS [continuing]. does that have anything to do with your reputation as CEO? Seems like you've been giving and taking — mostly taking from the acquisitions of some of these people.

Mr. SCHWALB. No, it has to do with the Federal Civil Service salary schedule, which I don't remember the exact number of.

Mr. COLLINS. What is your reaction to the comments about the studies that you are supposed to make prior to entering a market, you have been taken to court in order to force you to provide these studies?

Mr. SCHWALB. Let me comment specifically on the issue with the containers. The statute in the guidelines say that whenever Prison Industries is going to produce a new product — and it also talks about expansions, and I'll just focus on new product that the matter has to be studied and a proposal presented to the board, and the board has to authorize that. This decision that — the initial decision of production of these containers being determined to not be a new product, was made in about 1991 or 1992 and it was made by—

Mr. COLLINS. Were you involved in that decision?

Mr. SCHWALB. No, that was before I came to this job. But the analysis that was done was to compare the types of containers we had made in the past; some of which were metal, some of which were not, some of which were fiberglass and kinds of products, and the other types of metal products we made, which weren't containers. A determination was made that under the categorization of code of specific products, using the Census Bureau data to categorize that, that this type of product did not represent a new product. Therefore, production was initiated without going to the board.

Now, when the matter came to our attention, as the witnesses described, we went back and reviewed that. First, the individual who made that determination was no longer in that capacity. Second, the decision was not well documented at the time. Third, and looking back on it recognizing that it was with some hindsight, we did not feel comfortable in retrospect with the credibility, if you will, of that decision. So, we immediately suspended our efforts to produce that product. We relinquished any more activity on that contract, and we notified both the customer and the industry, private industry, that we felt it did need a board review and we initiated—

Mr. COLLINS. Was this before the litigation?

Mr. SCHWALB. I think the final decision was probably after the complaint was filed, but the internal review was underway when the issue was raised to—

Mr. COLLINS. What would have happened if they had not carried you to court on it, you would have gone forward with the manufacturing?

Mr. SCHWALB. Well, I don't think we would have. We had an initial review that had been undertaken at my request. When we couldn't come up internally with either documentation or rationale which I was satisfied with, we made the decision to pursue the matter through the normal study process.

So there's some degree of self-serving just in that statement. I understand and I appreciate that. But I really believe that once it was brought to our attention and we reviewed it, that we were pursuing our study one way or the other.

Mr. COLLINS. In other words, you were wrong to pursue it without a study?

Mr. SCHWALB. What we were wrong to do back in 1991 or 1992 is to have made the decision that this was not a specific new product, yes.

Mr. COLLINS. Well, would it not be right to reimburse General Engineering for their cost of litigation taking you to court proving you wrong?

Mr. SCHWALB. Well, that's another matter. I'm not sure I'm qualified to comment on but—

Mr. COLLINS. You're the CEO.

Mr. SCHWALB. I know, but it's a legal issue that I'd rather not—

Mr. COLLINS. Did you say that to your board?

Mr. SCHWALB. I certainly will discuss it with our board, sure.

Mr. COLLINS. What about the White Paper? You were there January of '96. Is that your White Paper?

Mr. SCHWALB. Yes.

Mr. COLLINS. Are you admitting you violated that law? Do you know how to run a sewing machine?

Mr. SCHWALB. Do I know how to run a sewing machine, no?

Mr. COLLINS. It seems like you ought to be on the other end of the stick on this one. You should be behind the machine, not in charge of the machine. Did you break the law?

Mr. SCHWALB. The White Paper outlines the areas where we believe there were instances of the statute or the guideline not being followed. That's why we published that White Paper and presented it to the board. But as I said, all those issues related to that as well, as all the other issues in the dorm and quarters area, are currently being litigated right now.

Mr. COLLINS. Do you think it's right to put a private sector citizen out of work to employ a convict?

Mr. SCHWALB. As a matter of a moral and ethical dilemma, I don't support that idea, no.

Mr. COLLINS. Are you not doing that?

Mr. SCHWALB. Well, there's certainly individual instances where that's been asserted, and I'm not denying the sincerity of those assertions. But as the data we presented in that chart and some of the other analysis we've done recently suggest, we shouldn't lose sight of the fact that Prison Industries employs and supports a lot of small businesses with its efforts and its existence. We shouldn't lose sight of the fact that there are law-abiding citizens who run these prisons, who supervise these inmates, and who produce these products for the Federal Government as well. This is not something that is run by inmates in this program. It's run by staff who supervise inmates. But—

Mr. COLLINS. But your intent is to work the convict?

Mr. SCHWALB. That's right. Teach them skills and so on.

Mr. COLLINS. But you're putting private sector people out of work.

Mr. SCHWALB. Depending on the data you want to accept as reality. If the Federal Government's purchases is going up—

Mr. COLLINS. It's a reality, Mr. Schwalb, when private sector citizens lose their jobs because you come in and muscle away their work, taking the business of the company that they work for. That's the reality. That's a reality that you need to change.

Thank you, Madam Chair.

Chair MEYERS. Thank you, Mr. Collins. The next person I will recognize is Mr. Hoekstra of Michigan and then Mr. Petri of Wisconsin. But in the meantime let me say I have a hand up here. I think Mr. Riley would like to comment, and the rest of you would like to comment on questions that are directed to another individual, feel free and we won't be too tough about the red light. Mr. Riley, you make your comment and then we'll go to Mr. Hoekstra.

Mr. RILEY. Madam Chair, thank you. I would like to make one comment concerning the litigation that is going on with FPI. We had 11 firms that are part of QFMA, of which eight of these are very small businesses, which have had to file a lawsuit in the District Court of DC. That costs us \$100,000 just to — just to do the

filing for this, and we're having to do this, even though in the White Paper that FPI admitted that they broke the law, but they won't agree to relent.

Now, I think that's an important point because it's the small businesses that are having to do this. Thank you, madam.

Chair MEYERS. Thank you very much, Mr. Riley. Mr. English.

Mr. ENGLISH. Yes, I'd like to make a comment on the Congressman's comment that left. He said that he thought that was a good move to catch Congress when they weren't in session. I might suggest that when I mentioned bully, a bully picks on a small guy when the policeman's not around. One other comment——

Chair MEYERS. I'm sorry Mr. Sisisky isn't here. He would have enjoyed that.

Mr. ENGLISH. Yes. Another comment is I mentioned that disabled wounded Vietnam Veteran who lost his business, I'd like to state now — and I've got this in testimony here that will be presented — that the gentleman I was talking about losing his business, losing several hundred thousand dollars, was wounded by land mines twice in Vietnam. I personally contacted Mr. Schwalb and Mr. Kirschbaume, UNICOR's legal counsel about this while it was happening. They preceded right ahead, pushed it down lower on UNICOR's ladder and said, "Somebody else take care of it." I can tell you, that man is out of business because of their attitude.

Chair MEYERS. Thank you very much, Mr. English. Mr. Hoekstra.

Mr. HOEKSTRA. Thank you, Madam Chairwoman, and thank you very much for inviting me to be a part of this panel today and for working so diligently in developing the legislation that we've co-sponsored. We've completed a project in our office which we call the "Myth of the Magical Bureaucracy," and I have found Chapter 11 today in the testimony from this panel.

Mr. Schwalb, we met a few months ago and we talked about this issue, and I kind of grabbed my chair then, and I had to almost grab my chair as you were talking and giving your testimony today.

You stated that in evaluating the Federal market for systems furniture we shouldn't be concerned about the growth in FPI system's furniture business because the private sector market was growing at a faster rate; is that correct?

Mr. SCHWALB. I was referring to this chart in which we projected——

Mr. HOEKSTRA. I know exactly which chart you're referring to. I have it in front of me. I think you stated that we shouldn't be concerned, because the private sector business was growing faster than FPI; is that correct?

Mr. SCHWALB. Well, I don't remember saying that you shouldn't be concerned. I was just showing that there's a projected rate of growth that's available for the sales from the private sector as well.

Mr. HOEKSTRA. Well, rate of growth — if that's rate of growth, can you explain to me how that's rate of growth?

Mr. SCHWALB. I was referring to the total dollar sales. Our——

Mr. HOEKSTRA. Which kind of company would you invest in a company whose sales grew from \$70 to \$130 million in 5 years, or a company whose sales grew from \$390 to \$485 million in 5 years?

Mr. SCHWALB. Also had access to the private market?

Mr. HOEKSTRA. No — it has nothing to do with access to markets — which kind of company has a better track record?

Mr. SCHWALB. Well, with all due respect, it does have something to do with it and——

Mr. HOEKSTRA. You are growing FPI business at a rate of 85 percent, when the growth rate for the private sector is 24 percent. At best, I would say that your testimony earlier is a distortion of the numbers. At worse, I won't characterize them. When you are talking about what is reasonable, and say that sometimes reasonable people can disagree; I would guess that most reasonable people would believe that when a Federal Government Agency decides that it is going to grow at three times the rate of the growth of the private sector that that is an unreasonable growth rate for the Federal Government Agency to assume.

I would love to be a manager or a CEO of a company that takes a look at a market and says, "The industry is going to grow 24 percent over the next 5 years, and, you know, I think I'll grow my company 85 percent." What a beautiful industry for the Federal Government and we're putting real people out of work.

I would like to know in your cost benefit analysis of FPI selling a \$130 million worth of office furniture, Systems Furniture, how many private sector jobs have your studies shown you are displacing?

Mr. SCHWALB. Well, let me refer back to this chart.

Mr. HOEKSTRA. No. It's a simple question. How many jobs is a \$130 million of office furniture production displacing in the private sector?

Mr. SCHWALB. Are you talking about displacing in the sense of existing people will be put out of work, or are you talking about future employment opportunities that won't be reached?

Mr. HOEKSTRA. If \$130 million of office systems furniture has to be produced in the private sector, how many jobs will that create?

Mr. SCHWALB. I don't know.

Mr. HOEKSTRA. So, we don't know how many jobs we're displacing there. How many jobs are you displacing with the \$10.8 million in sales, which is a 315 percent, almost a fourfold increase over 7 years in the apparel industry?

Mr. SCHWALB. Again, I think the issue of displacing——

Mr. HOEKSTRA. How many employees in the private sector are needed to produce \$10.8 million of apparel?

Mr. SCHWALB. I couldn't tell you off the top of my head, sir, no.

Mr. HOEKSTRA. Mr. Francis, do you know how many jobs \$10.8 million potentially could produce?

Mr. FRANCIS. We estimate that to be about 4,500.

Mr. HOEKSTRA. About 4,500 jobs?

Mr. FRANCIS. The increase from what FPI had planned and what new plans were in December of '95, that would displace 4,500 jobs.

Mr. HOEKSTRA. I'll just close, Ms. Meyers, and refer back to the comments by Mr. English.

I can't think a better way of saying it that what we're doing in this case is we're "stealing jobs from the law abiding." This is an attack on the American worker, and FPI is eliminating jobs in the private sector; and it's the Government doing it. If there is a myth

out there it's that the Government should be taking jobs from the private sector. Thank you.

Chair MEYERS. Thank you, Mr. Hoekstra. Would any of the other panel members care to comment on any of that? I don't want to lock you out. Obviously, most of our questions, so far, have been directed to Mr. Schwalb, and I don't want to shut you out. Ms. Krell.

Ms. KRELL. I would just like to make the point that my particular industry is about 10 years old. And 95 percent of the companies engaged in the remanufacturing of toner cartridges are true small businesses, and we're not talking about 200 employees or 300, we're talking about 20 people, 30 people. They support husbands and sons and their families. They make these things in their garages, in their basements, or in a shack behind their house.

It seems to us that the major focus with FPI and our industry is on military installations. Now, military installations are scattered throughout the country, not in, a lot of cases, well-populated areas. In Colorado Springs, there are five military installations.

It is very unfair for us not to be able to deal with these military installations, particularly when the Federal Government, as I am given to understand, is required to give preferential treatment to a recycled product.

Private industry doesn't have to do that. Private industry can buy whatever they want at whatever price they want. Going into this, Prison Industries has the given of knowing that the Agency has to buy the product, if they provide it. The problem is that they're providing the product at a higher price.

Now, I know that Prison Industries says their price is competitive. However, in my particular case, I know I can sell a single product for \$29 less than Prison Industries can. Now, that's outside the curve. That's just — that's a lot more money than needs to be spent, and I have to pay for my building. I have to pay for my overhead. I have to pay for my staff. I have to pay for benefits, and I have to pay fully for my product. In many cases, I have to buy things in order to do my job that Prison Industries does not have to because it's supplied by the Federal Government by requirement.

I would just like to have this playing field equalized for business. Particularly in my industry, because we are so small, and we are so scattered, and we have a whole bunch of business not available to us. We are having contracts pulled from us on the turn that we have built up for, and when the rug is pulled out from under you, when you have the staff and the product already paid for, it's a big hit to take. Thank you.

Chair MEYERS. We appreciate your comments. Mr. Petri, who may bring us a different perspective. I'm not sure.

Mr. PETRI. Well, thank you very much, Madam Chairman, for allowing me to sit in on this very interesting hearing and make a few points. I'd really like to associate myself with not all, but a good bit of what our colleague, Norman Sisisky, had to say.

My district is somewhat similar in that I represent both an industry that does business with Federal Prison Industries and also a large Federal Prison which may, in fact, soon be the home for our former colleague, Mr. Rostenkowski.

The Federal Prison system has been growing very rapidly. I think that may, in fact, drive the growth of Federal Prison Industries, more than a desire to conquer market share from the private sector. There's a correlation there, that would indicate that it's not "lebensraum," or trying to gain unjustified ground, but rather any growth is needed just to accommodate a growing prison population and keep it busy.

I'm joined today by two of my bosses, constituents from central Wisconsin who do a good job for us and for the taxpayer: Mark Ciske, who's head of the local AFL-CIO prison guards union at Oxford, Wisconsin, thank you very much; and his predecessor and the man who rose through the ranks and became head of the national Council of Prison Locals, Mike Grotefend.

I think in our concern about workers, we should listen to and be concerned about people we ask to put their lives on the line maintaining safety and security and law and order in our Federal Prison system. So Mike Grotefend is here and he prepared a statement I'd hope I could append to mine as part of the record. He's really retired now, but I think he has some valuable experience to share. Sometimes you're biased by your experience, but that doesn't mean it's wrong. He has done a great deal to build communications in the Federal Prison System between employees and management and avoid a lot of difficulties over the years.

My district, as I said, contains both a Federal Prison and Krueger International which has approximately 2,000 employees in its manufacturing facilities in Green Bay, Gillett, and Manitowoc, Wisconsin, and Tupelo, and Winona, Mississippi. The largest single customer of Krueger International is FPI.

Private sector businesses, like KI, vigorously compete for FPI's business and many of them are small businesses who supply materials and services either to companies like KI or directly to FPI. It follows that if FPI's ability to do business were affected, as they believe it would be, by proposed legislation under consideration here today, so too would all the businesses, large and small, that have invested years of effort in doing business with Federal Prison Industries.

I'd like to submit for the record the White Paper prepared by Federal Prison Industries in March of 1996 entitled, "Addressing The Effect of Federal Prison Industries on The Private Sector in General and the Furniture Industry Specifically." The paper indicates that 100 percent of every dollar of FPI sales is returned to the private sector and to private sector businesses.

Vendors, large and small, benefit from FPI's procurement from them of equipment, services, and raw materials. Local businesses and communities also gain through monies spent by correctional staff, inmates, and through FPI contracting with local vendors.

The paper indicates that legislation which would "take away FPI's status as a mandatory source of Federal supplies and require it to compete commercially for Federal Agencies business," would have the consequence of a net loss of private sector jobs.

We're concerned about private sector jobs. We at least ought to look at evidence which may be counterintuitive, but which may indicate that rather than taking net private sector jobs, this FPI is maintaining and creating private sector jobs.

We ought to at least look at the data, rather than just automatically assuming that because someone is working in Federal Prison Industries, that is a one-on-one tradeoff for a job somewhere else. In many cases, the private sector would automate production more or move it overseas. We really ought to at least take that into consideration.

The security of our prisons would also be significantly impacted by this legislation. I believe the Federal Bureau of Prisons considers FPI to be its single most critical correctional tool in managing the spiraling inmate population and overcrowding that now exceeds Federal prison capacity by 24 percent.

As our Federal prison population continues to increase, the need for inmates to work has simultaneously become more critical. By providing essential training and employment, FPI reduces the inmate idleness associated with prison disruption, thereby making the institutions and surrounding communities more safe and secure.

A 1991 Post Release Employment Study has shown that the inmate worker is less likely to recidivate upon release than the non-employed inmate which ultimately results in a cost savings to the American taxpayer. I'd like to submit my full statement for the record, and thank you very much for letting me be part of this hearing.

Chair MEYERS. Without objection the statement of the gentleman from the constituency of Mr. Petri will be entered into the record, and the White Paper, and also Mr. Petri's statement.

If I could, I'd like to take my turn now. I'll try not to take the entire 5 minutes, and then I'll recognize Mr. Bartlett and Ms. Kelly. I have a couple of questions that I think can be answered relatively quickly.

First, I'd like to say that I'm not against Prison Industries, and I don't think anybody at the table is. I think we all recognize that this is something that we all want to continue. We don't want people to leave prisons without skills, without motivation. We do value the lives of the people who must work in the prisons, and idleness is very difficult for them, idleness on the part of the prisoners.

I would like to know something that was inferred by most of the people at the table. Since you can pay substantially less in Prison Industries, why should not Prison Industries compete and bid? It would seem to me as if they would be in a good position to compete and bid for the various orders that you've filled, and could you comment on that?

Mr. SCHWALB. Certainly, Madam Chair, I'd be happy to. There's really two points I'd make in response to that question. The first one is, it is deceiving to only consider the rate of pay the inmates receive. We employee a lot of inmates in our facilities, and it takes a lot of staff to supervise those and, of course, the staff are receiving civil service salaries and benefits, and the overhead rate, and we provided this data to a number of private companies and asked them to compare their applied labor and overhead rate that we have with theirs. In fact, in many cases, ours is higher. The dilemma for us is trying to get the cost down to comply with the statute of selling it at current market price, as we're required to do. So, it's much more difficult than it appears.

There are a lot of constraints and inefficiencies associated with operating a business in a correctional environment: Controlled tools, control of machinery, searching inmates when they come to and from lunch, they get lawyer's visits, they get family visits. There's all these things that interrupt the work day. On average, we're lucky to get about 6 hours of productive work out of an inmate in a particular day.

So when you add the inefficiencies with the additional cost, we are not competitive in the sense of the true applied cost of doing business.

The other thing I would mention is that most of the products, or many of the products that we make — and using the Systems Furniture example we refer to in the chart as one example — UNICOR has never intended for itself to be a sophisticated design manufacturing research and development entity.

We're an inmate labor organization, and we're not trying to be more than that. So, what we do is attempt to provide ultimately a product which the Federal customers want. We don't want the Federal customers to buy something that's not good quality, that's not contemporaneous, that's not well priced, that's not delivered on time. In many of our product lines, we would not be able to provide the product at all, if we didn't partner with a private sector company to use their know how with a proven product and then integrate it using inmate labor to produce it in a different fashion than they would.

So private companies have told us over and over that they're not interested in partnering with us, there's no incentive for them to partner with us, if they didn't have mandatory source.

Chair MEYERS. I think one at the table said today they might be interested in partnering with you, and that kind of leads me to another question, just kind of a one-word answer, because I have one more question before I go to Mr. Bartlett.

What percentage of your business would you say you have partnered with a small business or you have made the attempt to partner with a small business?

Mr. SCHWALB. I wouldn't want to hazard a guess on that percentage, but I'd be happy to do some research and provide that number to you, Madam Chair.

Chair MEYERS. OK.

Mr. SCHWALB. I know a substantial part of our sales is associated with partnering with private companies, well more than half, but I wouldn't want to be more specific than that.

Chair MEYERS. I think that was the point that Mr. Petri was making, and I just wondered what percentage of your business is partnered? I think you said 60 to 70 percent of your materials are purchased from a small business.

Mr. SCHWALB. Approximately 60 percent are purchased just from small businesses, yes, and then it's even more if you add the whole private sector in.

Chair MEYERS. I think the main concern that I've heard expressed here today is that with the vague wording in "reasonable share" it seems unfair that you can kind of decide what this is, and that it can jump from maybe 25 to 35 percent leaving small businesses in that field quite unprepared.

The second thing I've heard said here today, is if something does happen that's unreasonable is that there seems no avenue of appeal, other than a very costly court case and most small businesses, of course, are just not prepared to make that kind of expenditure.

I would think that considering everything you've heard today, that maybe setting some kind of a ceiling in the law on the percentage of market that you can have would almost be to your advantage, especially, if there were some kind of appeal left in that you could go to the board with.

In some cases, you might need to have 22 or 25 percent, and there was not a small business that was going to be put out of business with this, but I think it would have to be a fairly tight procedure. It seems to me that this would almost be to your advantage.

Could you comment on that? Have you not had a great many court cases and a great deal of disagreement caused by this sudden escalation of the percentage that you might consider reasonable?

Mr. SCHWALB. Madam Chair, we actually have had very few court cases on this issue since the guidelines were established in statute in 1988 or 1989. I would say it's fair to say though that the industry that feels they are affected by our growth has certainly not been happy about it. So, there's been many instances of displeasure. I would be the first to acknowledge that.

I will tell you that of the product areas that we produce in, there's only about a dozen of them that produce more than 20 percent of the Federal market. So, the majority of our products we try, again, at the board's direction, they're the ones who make the decision. At their direction, we are attempting to keep the percentage of any one product that we have on the Federal market as low as possible. Of course, by law, we're not allowed to have any of the domestic market product line.

So the board has, I think, been responsive to that, and as an example it was reflected in their dorm and quarters decision. They said in their decision that the rate of growth we asked for, from 25 to 35 percent, they felt was too big a share of the market; and they approved a much lower rate than we had asked for in response to that concern.

Chair MEYERS. Would you think, Mr. Schwalb, that it would be appropriate to have members of the small business community represented on your board, especially from those small businesses that are in an area where you have a very strong percentage of the market? It seemed to me we've heard from furniture, we've heard from manufacturing, clothing, textile. It seems to me, as if that would add a perspective to your board meetings that is not there now.

Mr. SCHWALB. You mean a specifically designated statutory position to represent small business?

Chair MEYERS. Well, it seems to me it would be appropriate, yes.

Mr. SCHWALB. I don't think it's an unreasonable proposal. As I said, our chairman currently is a small business person. The only thing I would caution, is that I suspect that if we had hearings on the product that the Agency represented and had a vested interest in — business in what the decision of the board was, they would find themselves recusing themselves more often than they would participating.

Chair MEYERS. Mr. Bartlett.

Mr. RILEY. Madam Chair, may—

Chair MEYERS. Oh, yes. I'm sorry.

Mr. RILEY [continuing]. may I address a couple of questions to Mr. Schwalb, please?

Chair MEYERS. Yes.

Mr. RILEY. I want to be sure that I understand. Are you telling me that at paying .23 cents to a \$1.03, if I'm correct, that you're at a competitive disadvantage to me at paying workers at \$10 an hour plus 40 percent fringe benefits because your overhead is high enough to cover that difference?

Mr. SCHWALB. Yes, I'd be happy to provide that data to you for you to analyze.

Mr. RILEY. So, paying 14 times less than what I'm paying—

Mr. SCHWALB. Having about 14 times more people doing what it takes for you to do. We don't mechanize our operations. We employ lots and lots of inmates, and for every group of inmates we add, you have to add civilian supervision to those inmates; and it costs money to do that. They don't produce a full work day. There's a lot of inefficiencies inherent in a correctional facility that you can't overcome. This is not designed to be a business. This is designed to be a self-sufficient correctional program.

So there are a lot of inefficiencies that we have to suffer that the private sector doesn't, and it does drive up the overhead rate.

Mr. RILEY. I don't want you to kill me over the numbers, OK? Because I'm not going to probably remember, but obviously I read your January 26, White Paper, OK? In there—

Mr. SCHWALB. On which I'm not going to comment further, as I mentioned earlier. So, if you have a question headed that way, I'm going to tell you right now—

Mr. RILEY. I'm going to make a statement, and you can just correct me if the statement is wrong.

Mr. SCHWALB. I may not even do that.

Mr. RILEY. At Fort Leavenworth, in 1 year they were making \$5 million at Dorm and Quarters Furniture. The following year, they made over \$12 million at Dorm and Quarters Furniture and they did it with 31 more employees. Now, to me, I'd like to have those 31 employees doing that \$7 million of business. Now, I don't know how many staff people you had to hire for those 31 people, but I think that's pretty darn good productivity. Honestly, it's better than I can get, and I'd like to have it.

As far as the Dorm and Quarters being backed off, yes it was. But it was backed off only after the board was confronted with the information that for 7 years that the information had not been reported, compiled, or proven through the board or approved by the board as it should have been. Seven years wrong prior to that, so I think maybe that had a little bit to do with the fact that the board cut 35 percent back some.

Mr. SCHWALB. I've already commented on this, I think.

Mr. RILEY. Thank you, madam.

Chair MEYERS. Yes, Mr. Graves.

Mr. GRAVES. Mr. Schwalb made a statement that FPI is not a business. We have a copy of the Dunn and Bradstreet report right here. It says right here that, "In 1992, FPI made \$20 million in

profit. In 1993 it made \$10 million. In 1994 it made \$10 million in profit." They didn't pay any income tax. They're well on their way to being a Fortunate 500 Company.

Chair MEYERS. Thank you, Mr. Graves. Mr. Bartlett.

Mr. BARTLETT. Thank you very much. I've been very interested in the testimony. Mr. Schwalb, what percent of the Federal prison inmates are not citizens of the United States?

Mr. SCHWALB. It's about a quarter, about 25 percent.

Mr. BARTLETT. I think that's correct. That is somewhat more than 25 percent of our Federal prison inmates who are not citizens of United States. Most of whom who are illegal immigrants; that is correct?

Mr. SCHWALB. Yes.

Mr. BARTLETT. Do you think that the American citizen would find it somewhat incongruous that an illegal immigrant who is also a prisoner should be taking jobs from hard-working Americans?

Mr. SCHWALB. As you described it, I think they would, yes.

Mr. BARTLETT. I think they do. I have a problem with the assertion that making these products in the Prison Industries provides more private sector jobs for vendors, suppliers, and subcontractors than if these products were made in the private sector. That, just to me, is an incomprehensible conclusion to draw. How in the world can Prison Industries provide more jobs for vendors, suppliers, and subcontractors than if that work was done in the private sector? The only way that that would be true is — would be the result of gross inefficiency and waste and abuse. If the taxpayer is finding that kind of gross inefficiency, waste, and abuse, that's something that I think our people would be interested in.

I'm very cognizant of the problem that one has in rehabilitating prisoners, and I understand the need to occupy them. When the Lord, according to the Bible, created this Earth, he established in a perfect world the Garden of Eden and put Adam and Eve in it and told them they needed to work to dress and keep the garden. So, I think that work is very important, and I understand the need to provide some kind of meaningful productive activity for the prison inmates so that they can see that commitment and productivity really do provide meaningful rewards to the individual.

But if, in fact, it takes you so many more prisoners and so many more supervisors to do the same amount of work that could be done in the private sector, are we, in fact, teaching them good work habits? If they can get away with working only 6 hours a day, if you have to hire three prison inmates to do what one person on the outside would do, our work ethic is slipping enough in this country, is this really teaching them good work habits? Are they, in fact, going to be able to get a job on the outside when they get out, if this is what they're led to believe is appropriate work performance?

Mr. SCHWALB. There's no question that the average work day that an inmate performs is not typical to what they would perform on the outside. But I will tell you in discussing this with numerous employers over the years, what they tell us they want us to teach the inmates, more than anything, is the basic work ethic.

Most of these inmates are undereducated, never held a legal job on the outside, and they are unskilled, and they've never had the experience of getting up everyday, going to a job, taking direction

from a supervisor, performing a quality job as part of a team, taking pride in their work, and so on. The things that all of us take for granted. More employers ask for that more than anything else. That the inmate understand that it's a workday world when they get out, and they have to be able to come to work and perform and learn what the business is about.

I would be the first to admit that a workday for an inmate doesn't look like the workday for anybody else in this room. But the more efficient we make the workday, the more alike we make it to a private sector, two things would happen.

First, we would automate and make the thing more efficient so it would look like the private sector, which means we'd employ fewer inmates. Second, as our ability to be more efficient went up, we would potentially be accused of taking even more business because we would be "more competitive."

Mr. BARTLETT. Well, I understand your need to have labor intensive jobs for your people, and I understand the desirability of that. That the more labor intensive you are, the more of your inmates you can employ. My concern was not so much with the labor intensity of the business, my concern was the fact they still got 24 hours in their day like all of us. They ought to work 8 hours. I have never worked as few as 8 hours a day, and I'm a little resentful of the fact that we are implying to our prison inmates that a 6-hour performance in what ought to be a 8-hour day is acceptable performance.

I've listened to the horror stories and let me take just a moment to close, Madam Chairman, I've listened to the horror stories and I'd like to recognize Mr. Morin from our district who is here today. He is going to be telling a similar horror story in the near future if we can't turn this thing around, because he is going to be put out of business by what he considers and I think any reasonable citizen would consider predatory activities by the Federal Prison Industries.

As supportive as I am of the need to provide meaningful activities for our prison inmates, there's just got to be a better way to do it than the way we're go doing it now. I would be very interested in the comments — the input from those of our witnesses here today, and from you, Mr. Schwalb, as to how we can accomplish the very worthy goal of providing a meaningful work experience with these prison inmates without creating the kinds of horror stories that you have heard today from this panel, and which can be replicated thousands of times across the country. There has to be a better way to do this, and we need to find that, and I would enlist the support and the advice of any and all of you to help us find that better way to do this. Thank you very much, madam.

Chair MEYERS. Our bill might be a good place to start. It may not be perfect, but it is certainly a good place to start. Ms. Kelly will be next then Mr. Chrysler, and then we will start a second round, if there are those who would like to do that. Ms. Kelly.

Ms. KELLY. Madam Chairman, thank you. I simply want to say, Mr. Schwalb, that Mr. Bartlett touched on one thing that I personally feel that where we have illegal aliens who are felons, I don't think they belong in our prisons. I think they belong back in the

country of their origin, and I think that might solve some of the problems we're talking about.

I am going to yield my time here to Mr. Hilleary who has further questions, and I think that, Madam Chairman, I — with your permission I'd like to do that.

Chair MEYERS. Without objection, that's fine.

Ms. KELLY. Thank you.

Chair MEYERS. Thank you, Ms. Kelly. Mr. Hilleary.

Mr. HILLEARY. I appreciate the gentlelady for yielding. I just have a couple questions. Earlier we talked about, Mr. Schwalb, about this definitional problem of product as opposed to market. I'm assuming — I mean, I don't think that you all are evil bent on tearing up industries and all. I just think it's probably that what happens is it's just the general inertia of your bureaucracy to want to grow. Of course, the down side to that is that it does take away, I think there's no question, it takes away jobs from the private sector.

What I was going to drive at is giving what I assume to be your motivation being pure, would you really have any problems with us defining what a product is in a more strict sense? I just don't think that the definition has gone the way that the original Congressional intent meant for it to go, and given what I assume to be your motivation to not put these folks out of work and close out businesses, would you have a problem with Congress redefining what the word "product" means with regard to what you're doing so that we can't take a whole product line from a business?

Mr. SCHWALB. Congressman, let me advise you of an effort that is underway right now. At the request of the industry and labor about 3 years ago a committee was formed. We call it the "Growth Implementation Committee" and it has representatives on there from the furniture industry from a variety of other industries organized labor, SBA, and FPI. That committee has been grappling with the issues like definitions of specific product and growth and expansion and those sort of things and we have recently exchanged among the committee proposals to revise the definition of that to make it easier to measure clear definition. Because in addition to the obvious sort of definitional problem about what is a specific product as you define it, there's also the moving target of how you collect data about it. The Federal Procurement Data System is getting to be less and less specific about the way they collect the data. They're more interested now a days obviously in the electronic commerce in speeding things up and credit cards and those sort of things and people we've talked to in the procurement policy end have said you need to tailor a new definition because even if you keep the old definition you're not going to be able to find data to do measurements with. So, there is an effort underway right now and we'd be happy to share the draft of that with any of the members who are interested.

Mr. HILLEARY. I guess the only problem that I see is that you may be grappling with it but you seem to be failing with it and so I — if your motivation is not to shut these folks down if it is just to provide jobs for these — for whatever kind for the prisoners I assume you would not have a problem with us trying to grapple with it as well as long as both goals are still providing jobs in the

private sector and the prisoners. I don't see why you'd have a problem with that.

Mr. SCHWALB. I didn't say I had a problem. I just said I wanted to advise you of an effort that is already underway and I assume that practice of the Congress as in the past has been to provide general guidance and expect reasonable implementation of the rules being developed.

Chair MEYERS. May I ask a question, Mr. Hilleary, of you? Is the gist of your question that because the definition of product is not specific, you can actually be producing a greater percentage than would be indicated? I'm not quite sure I understand your question about definition of product. Do you not also deal in services now?

Mr. SCHWALB. Yes. Make sure I don't have anyone misled. There is an existing definition of what a specific product is. Rules were developed and published and comment was received back in 1989 when the Congress passed the statute. What we're doing is refining a definition because we found over time that the data and the ability to define specific product is getting more and more difficult and more confusing. So, it's not as though there's no definition of specific product. There's a very clear definition of specific product in our existing rules.

Mr. HILLEARY. Yes, but I think it's very broad and it allows you to take Mr. Francis here — if he has a product, if he has a production line and it produces one specific product, I mean, no one in the business world has a problem defining what a product is a style number whatever and it just seems like you have defined it very broadly that allows you to take a whole product that he's producing every bit of his business and that product because there's some other similar product and you define it as a almost as a market as opposed to a specific product. But anyway I just have one other question real quickly—

Chair MEYERS. I think Mr. Francis would like a quick comment.

Mr. HILLEARY. OK.

Mr. FRANCIS. I think I can help her in the product definition. One of the items that they're going to take from us is protective clothing. Under that broad umbrella of "protective clothing" is your chemical warfare suit, your extreme-cold-weather suit, aprons, that sort of thing. They can come in and take all of the extreme-cold-weather clothing and that would still be under the percentages that they've set forth. Those manufacturers that specifically make that item would be put out of business.

Chair MEYERS. Thank you.

Mr. SCHWALB. Madam Chair, if I could just comment on that. That specific issue in fact was raised at the hearing with the board. The board's decision specifically says we're giving you certain production level in protective clothing and you are directed FPI to not focus all on one person's product or one specific product to the adverse effect of the industry. You're supposed to spread it across all of the different examples of protective clothing. It's in an existing board decision.

Chair MEYERS. Mr. Chrysler.

Mr. HILLEARY. I guess I'm out of time. I was going to yield, but I guess I'm out of time. Thank you, madam.

Chair MEYERS. We'll come back, Mr. Hilleary. Go ahead, Mr. Chrysler.

Mr. CHRYSLER. Thank you, Madam Chairwoman. I'm pleased that you brought these hearings today. I do not believe that the problem of idle prisoners should derail this proposed procurement reform.

These issues can be adequately addressed through subsequent legislation and reform after passage of this bill. In response to the issue of what the prisoner system would do with idle prisoners, a bill I have been contemplating could address these issues and serve as an excellent follow-up to representative Hoekstra's bill.

I hope to introduce a bill that would put prisoners to work in the private sector. It's main provisions would be as follows: Prisoners in the last 2 or 3 years of their sentence would be allowed to work during the day or night at a private sector company outside of the prisons. By limiting the program to offenders with short period of times remaining on their sentences, private industry could be assured of getting safe workers with an eye toward life after prison, not the murderers and the people who should be serving life sentences.

Prisoners would receive regular working wages from private sector companies. The same as everyone else at the company. Third the compensation the prisoner would receive would be used to pay for his transportation to and from work, room and board at the prison, medical care at the prison, any applicable child support and victim restitution. The remaining amount could be kept in an account which the prisoner could access for incidentals during incarceration and then a lump sum at release.

This would allow a hard-working prisoner to buildup a modest nest egg with which to start a new rehabilitated life after release, not forcing him back into the old neighborhood with the old peers that got him into trouble in the first place. Fifth, this plan would essentially save the prison system a certain amount of dollars the each year by having the prisoner pay his own way. A percentage of these dollars savings could be paid to the businesses which employ the prisoner in order to cover necessary training cost and provide a modest incentive for the employer employing the prisoner.

In Michigan, we have a 4.4 percent unemployment rate. It is almost virtually to got out and hire people off the street. This would create a new labor pool which would ease that situation in Michigan. Although this legislation is still in the concept phase, I feel it represents a very pragmatic way to address the problem of idle prisoner labor which has been brought up to date without setting preferential Government bureaucracy.

We must not abandon needed reform in this case just because new challenges will arise. We must push forward and then focus on these challenges with more innovative solutions and this would be a good compromise for both of the parties that are here testifying today. I would appreciate any of your comments on that type of legislation.

Ms. KRELL. Sign me up for it. I'm absolutely willing to do anything like that. My State's unemployment rate has got to rival yours. It's very low, and it's very hard to get qualified people to come to work, even unqualified people to come to work. If I had a

trained released inmate who would come to me trained in my business assuming that he was not in prison, or she was not in prison, for a capital offense I would hire that person, absolutely. It would save me a lot of money. It would save me a lot of time. I would get productivity, or at least, if what Mr. Schwalb is saying is true, I would get a work ethic, and I'd pay for that.

Mr. CHRYSLER. I think you would end up consuming, if you will, with the drive time to the job the 8, 8½, or 9 hours on the job and drive time back you might consume 10 or 12 hours of that prisoner's day instead of 6.

Ms. KRELL. I would make the effort. I mean, right now, I employ two deaf people, and we make use of interpreters. We have people who are adept at sign language come in to communicate to these people when we need it. We're willing to do that because they're good workers, and they like what they're doing and they know what they're doing. So, we're willing to make the accommodation.

Mr. CHRYSLER. Anybody else got any thoughts on that, Mr. Schwalb?

Mr. SCHWALB. Well, I think it's got a lot of intriguing features and I commend you for the effort to develop that. We do, right now, employ — or excuse me, release inmates near the end of their sentence not 2 or 3 years but 90 to 120 days before the end of the sentence through our Halfway House Program and the expectation is that they are going to go find a job and they're going to contribute to the cost of the room and board. The goal being, of course, as you just said, to have an effective transition to a law-abiding life.

The only other issue that I think still remains is we still have thousands of inmates. Our population's over a 100,000 now, thousands of inmates who are not at the end of their sentence or who have committed infractions that have long sentences. There still remains the need to do something with those folks while they're in sentence — excuse me, while they're in custody and before they near the end of the sentence and some sort of work that can be brought into the prison is still going to be required to some degree. But I think it's a very interesting idea and we'd be happy to discuss it more with you.

Mr. CHRYSLER. Anybody else, Roger?

Mr. ENGLISH. Only on the same lines Mr. Schwalb might be able to answer this question. Do you give lifers jobs in any of your industries?

Mr. SCHWALB. Yes, we do not preclude — the only people who are precluded from employment in Prison Industries are inmates with medical conditions who can't work, inmates who are pretrial inmates who are not serving a sentence and can't be compelled to work. We do not have Prison Industries in our minimum security camps because we have other community service projects we make them do instead. To answer Mr. Bartlett's earlier point, once an inmate who is an alien has had a deportation order decided upon by INS or a District Judge, they are precluded from employment in Prison Industries; while they're in our custody, but not yet had a hearing on their immigration detainer, we treat them equitably with all the other inmates. But we do not — we do not preclude inmates on the base of the length of their sentence. So, inmates serving life sentences could potentially be in Prison Industries, yes.

Mr. ENGLISH. That was a loaded question really, because I've been in some of your prison factories. I understand that some of the UNICOR people like to employ lifers best because they don't have to worry about the turnover. But isn't it sort of ridiculous to teach them work ethics, et cetera?

Mr. SCHWALB. I understand your concern, but I would tell you two things. Number one, the inmates serving the life sentence may still be someone we have to manage and provide some reasonable equitable opportunity for programming while he's in custody. Second, the number of inmates serving life sentences is very small as a percentage of our population, very small.

Mr. CHRYSLER. Certainly the prisoner to work program or concept would be a way to augment what you feel is a 20 to 30 percent growth need for more jobs in prisons because of the population of the prisons increasing. Maybe that would help alleviate that. I wasn't saying we should eliminate what you're doing in the prisons, but just augment it so it would take care of that additional growth.

Mr. SCHWALB. No, as for myself, I thought it had some very intriguing potential.

Chair MEYERS. Thank you very much, Mr. Chrysler. Mr. Hoekstra.

Mr. HOEKSTRA. I'm disappointed my colleague from Wisconsin isn't here. In your opening statement, Mr. Schwalb, you indicated that FPI was diversifying. I'm sure that Krueger International and Mr. Petri's district will be excited to learn that one of your diversifications is the establishment of two furniture parts factories. You now are moving into the furniture parts industry and that most likely will be creating more jobs for Krueger International.

I would like the White Paper entered into the record on the effect of FPI on the private sector. It's the March 22, dated — at least the cover memo is — I think it's a March 20 document. It's the FPI produced White Paper on FPI's on the furniture industry, which does talk about potential the job loss. I know there's still some dispute in there, but the chart says, "Comparison of job loss based on total annual sales increase." I know that you're not fully in agreement with this analysis, but the industry model indicates that there's a projected job loss of somewhere between 463 and 1,429, recognizing that the further pages in that White Paper still dispute whether that 463 is a legitimate number.

Mr. Schwalb, in the past, you've indicated that in the furniture market you have approved a high number of the mandatory source rule waivers; that is correct?

Mr. SCHWALB. Yes, it is. Just using this year's data as an example, for the first 7 months of this fiscal year, we approved 98 percent of all the furniture waivers requested across all four major lines of furniture.

Mr. HOEKSTRA. At what capacity are the furniture lines in the prisons running, right now?

Mr. SCHWALB. They're running at full capacity.

Mr. HOEKSTRA. They're running at full capacity. Is the impact of whether they're running at full capacity an indicator as to whether you provide a waiver or not?

Mr. SCHWALB. I'm not sure I understood the question.

Mr. HOEKSTRA. Does your backlog impact whether you provide a waiver or not?

Mr. SCHWALB. No, actually what determines whether we provide a waiver is whether or not we believe we can meet the customers needs in terms of the delivery date, the quality, and price and so on. Now, obviously, if we have a backlog of work and can't meet the delivery date then we're going to generate a waiver request and grant it, sure.

Mr. HOEKSTRA. Have you had occasions in the Prison Furniture Manufacturing sector where prisoners have experienced a layoff, or has your business been a constantly growing business?

Mr. SCHWALB. You mean our furniture factories? Yes, it's been growing over the years.

Mr. HOEKSTRA. Consistently? I mean have you had a downtime where you've maybe gone and laid off 10 percent of the prisoner work force for a period of 6 or 9 months or—

Mr. SCHWALB. That hasn't happened since I've been in this job, but I couldn't comment on very far back into the history without researching it.

Mr. HOEKSTRA. Ms. Krell, have you had a period were you might have gone through a process of having to lay off workers during the last couple of years?

Ms. KRELL. We don't normally have to lay off workers. We lose people through attrition in my State. There just are too many jobs for the number of people who are available to fill them.

We could have had to lay off somebody when we lost the Academy business, but we worked very hard in finding other sources for that sales volume. We have the potential of having to lay off if we lose some business that we already have with a local Federal facility.

Mr. HOEKSTRA. I forget which one of you produced the Dorm Furniture. Mr. Riley?

Mr. RILEY. Last year, we laid off approximately a third of our work force.

Mr. HOEKSTRA. What was the volume like in the Dorm Furniture market for FPI last year, Mr. Schwalb, do you know?

Mr. SCHWALB. You mean, the sales level?

Mr. HOEKSTRA. Yes.

Mr. SCHWALB. Our sales level has been pretty flat, virtually flat and identical for the last 3 fiscal years.

Mr. HOEKSTRA. Mr. Riley why did your business go down?

Mr. RILEY. Suppose that it's possible that it's luck of the draw of where we had strong influences, and Prison Industries was able to take that business. When I say "luck of the draw," obviously, we all have relationships with certain locations where we are the regular supplier for that location. When Prison Industries or FPI decides that they want to be the regular supplier, then they just appropriate that business.

Mr. HOEKSTRA. You can't do that with your customers?

Mr. RILEY. I'm afraid not.

Mr. HOEKSTRA. OK. The—

Mr. RILEY. Though I would like to.

Mr. HOEKSTRA. I thank the gentlewoman for the opportunity to be here. It's been a very good hearing. Thank you.

Chair MEYERS. Thank you very much, Mr. Hoekstra. I just want to acknowledge your contribution in this bill. It is largely due to Mr. Hoekstra that this bill is before us.

I'm going to close with one question. I guess we'd start with Mr. Schwalb, but I'd like to have several of you comment if you wouldn't mind.

Have you ever done a customer satisfaction survey? I would like to have the panel comment on what they know about the customer satisfaction of the people with whom Prison Industries deals.

I ask because I do think that the customer drives competition, and it strikes me that competition would help Prison Industries and help it eliminate some of the problems with the industries with whom they compete. If you are trying to teach a work ethic and how to get along on the outside, I think one of the main things that has to be learned is not just that you make a piece of furniture, but that you make a piece of furniture that's a little better than the other guys, because you have to compete. So, what about this? Have you ever done a customer satisfaction survey, and what do you — do the rest you here, or maybe you never have, about the satisfaction with Prison Industries' product?

Mr. SCHWALB. Madam Chair, we have done several surveys. I don't have one with me, but I'd be happy to make it available for the record, for the Committee. The majority of the respondents were happy with both the quality, delivery, and price, and so on of our products.

We regularly get letters of accolade from the customers for our responsiveness to their requirements, but I also tell you that we have a history in the past of not being as responsive to the customer as we should have been. It was a self-inflicted wound. I mean, there's no one to blame except us, and we worked very hard to improve on all those factors: Quality, price, and delivery. I think we're at an all-time high, and I think our customers would say that. Do we have some unsatisfied customers, yes, we do. But I suspect my colleagues at the table do as well.

Mr. ENGLISH. Might I say that private industry has a continuous customer satisfaction survey going every day. If our customers don't like what they buy, they don't pay their bill first of all; but second they don't come back, and we'll go out of business. In FPI's case, they don't have that choice.

Chair MEYERS. That is true. Ms. Krell.

Ms. KRELL. We happen to have a very stable customer base, and we have the honor of having our customers refer other customers to us because they were satisfied with us.

I don't want to make any comments about the quality of the cartridges produced by Prison Industries. I don't feel that's my place to do that, but I can tell you what I am seeing. What I am seeing is just in relation to the solicitation for bids going through the electronic network that the Government has. We are seeing a lot of requests for new cartridges, not remanufactured cartridges. There's a portion on this request that it specifies exactly what you want or don't want, and it says very specifically, "No remanufactured cartridges."

I believe, that the buyers are doing this so that they do not have to go to Prison Industries for their cartridges, and they know that

they have to. So, instead of doing that, they are going to a new Hewlett Packard or Canon cartridge.

There are no bids that we have seen of any great amounts for remanufactured cartridges which are made by Prison Industries on EDI. For those cartridges which Prison Industries does not make, we're still seeing only new cartridges requested.

So what's happening is that these buyers don't want this product. No matter who makes this product, they don't want this product. We're both suffering by that. Prison Industries is suffering. I'm suffering. Everybody else in my business is suffering. There's got to be a quality issue here. It's either a quality issue, or it's an issue of difficulty in dealing with Prison Industries to get a waiver or just the inability to know that there is a waiver process. Our business is being damaged by this, not just mine.

Chair MEYERS. Thank you very much. Mr. Francis.

Mr. FRANCIS. Yes. When we offer a bid of solicitation, our solicitation is evaluated on price, quality, and delivery. The most important of those is the past performance and delivery history. This is from the Defense Personnel and Support Center for fiscal year 1995, FPI had 33 contracts and the delinquency rate of 46 percent. Private sector had 201 contracts, delinquency rate of 9.5 percent. Fiscal year 1996 through May, FPI had 37 contracts, delinquency rate of 36 percent. Private sector had 88 contracts delinquency rate of 9.5 percent.

I also have — and I'll submit this letter to the record — from the Deputy of the Soldiers Systems Command, and his basic concern is maintaining enough — they're worried about setting aside work for FPI and destroying their manufacturing base. I'll submit that also.

Chair MEYERS. Mr. Riley.

Mr. RILEY. Thank you, Madam Chairman. In December, at the Board of Director's meeting for FPI, the Department of Defense testified specifically telling FPI that they were not happy with FPI's quality, their shipping, their pricing, or their total overall value.

If I satisfied just a simple majority of my customers, I wouldn't be here today. When — when we as a Government contractor, when we fail to produce the quality and the shipping times and the proper product that we say we'll produce for the Government, GSA takes our contracts away.

Chair MEYERS. Thank you, Mr. Riley. Does anybody else — Mr. Graves.

Mr. GRAVES. Yes, ma'am. I have no personal experience with any products manufactured by FPI, but I can tell you what I've heard from certain military people. They say the product is below average in quality, and deliveries are usually delinquent. Thank you.

Chair MEYERS. Mr. English.

Mr. ENGLISH. Yes, I do have one case, and I'll bring up that disabled Vietnam Veteran again. He had surveys done by — in your letter you'll see the number of bases where surveys were done for over a year testing all our products. All of them came up with a conclusion that his product, which happens to be toner cartridges, was far superior to what FPI could produce. In fact, there were cases where FPI were sending them cartridges, which they had to buy, they are stored away in places because they are unusable.

Chair MEYERS. I think Mr. Hilleary would like to ask another question, and with that we will conclude this hearing. I want to thank all those who have been on the panel, and all those who have been in the audience and have stayed. This has been a long hearing and we appreciate it very much. Mr. Hilleary.

Mr. HILLEARY. Thank you, Madam Chairwoman. I don't have to ask all these questions and would love to be able to submit them to be asked for the record.

Chair MEYERS. Yes. Members will be able to submit questions for the record, and we would appreciate it if you could supply us with answers in writing.

Mr. HILLEARY. But I would like to ask one last question, please.

Mr. Schwalb, part of your testimony stated that you accomplished your mission without really any taxpayer's dollars going to the operation. I'm just wondering, I'm sitting here looking at a letter from the Defense Logistics Agency, DPS. They talk about they do a little survey on the contracts that they had from 1992 to 1995 with FPI and they say that the average price for your products was about 13 percent higher than the commercial sector's price. If that being the case, and even if you — talking about you being in a cost disadvantage, seems to me that that 13 percent is, in essence, a taxpayer subsidy for these products. Would just like your comment on that.

Mr. SCHWALB. I'm not familiar, I don't believe, with that document you referred to. But I know that when we are providing a product, we're required by statute to have it priced in what the statute says is current market price range.

What we've told the customers is if it's a product that has a wide range, then we expect the sales to be within that range. If it's a specific product, and I had this conversation with General Freeman at DPSC over a year ago, I made it very clear to him if it's a specific product, that they go out and do a commercial procurement for, let's say battle dress uniforms, and their going to divide the thing up and give part of it to the blind and handicapped and part of it to us and part of it to the commercial sector, which is a common practice, that it's very easy to establish the current market price. There's only one Government buyer for battle dress uniforms. There's only one contract that they're soliciting for, and the commercial price that they receive from the private sector is what price I told him we'll take. We don't need to worry about negotiating with them about whether we have a higher applied overhead rate, which has been the past practice. They ask us to submit all kinds of pricing data, and I said, "Isn't the simplest thing for us just to take the commercial price and match that?" We're prepared to do that, and we've been doing that for over a year now.

Mr. HILLEARY. Assuming — there seems to be an overwhelming amount of evidence that many times your costs are — or your prices are higher. Assuming that to be the case, and assuming just for — percentage — let's say 13 percent would be the case, assuming that to be a fact, that would, in fact, amount to a taxpayer subsidy though in essence; would it not?

Mr. SCHWALB. Yes. Assuming that's the case. I think that's a fair way to represent it.

Mr. HILLEARY. Thank you, Mr. Schwalb. Thank you, Madam Chairwoman.

Chair MEYERS. Thank you, Mr. Hilleary. Again, let me say thank you to all who have appeared, thank Mr. Schwalb for being on the hot seat. I know this is not pleasant, because we usually target the Government person who is here a little bit.

I want to thank all members of the panel for presenting us with the information that not only will we use, but that we will pass on to the Judiciary Committee, because I do believe that they will be having a hearing on this topic. I appreciate your participation very much.

We are adjourned.

[Whereupon, at 12:25 p.m., the Committee was adjourned, subject to the call of the chair.]

APPENDIX

Jan Meyers

Chair, House Small Business Committee

Opening Statement for Hearing on

"Small Business Competition for Federal Contracts: The Impact of Federal Prison Industries".

June 27, 1996

Room 2359 of the Rayburn Building

Good morning. Our hearing today will focus upon the problems small businesses face in competing against Federal Prison Industries for federal contract opportunities.

From paper clips, clothing, and furniture to major weapon systems such as the B-2 bomber, the Federal agencies spend some 200 billion dollars a year for goods and services.

Since the creation of this Committee in 1942, insuring that small businesses have a fair opportunity to participate in the federal procurement system has been an important piece of our jurisdictional interest. We serve as a forum and advocate for small businesses who are not as well equipped to represent their interests in Congress and within the Executive Branch as are large corporations. We are particularly sensitive to any charges of unfair competition for federal contracts.

Small business owners and employees are anxious about "job security". Given that small business plays a major role in creating jobs, fueling the engine of technological innovation, and fostering economic growth, it is vital that the small business perspective be represented at the table when important policy questions are deliberated upon and decided. I consider that representation to be a big part of the Small Business Committee's job.

Federal Prison Industries (FPI), also known by its trade name, UNICOR, is a government-owned corporation sponsored by the Department of Justice's Bureau of Prisons. FPI manages a chain of manufacturing facilities located within correctional institutions operated by the Bureau. Established by statute in 1934, FPI produces 85 different products and sold some 392 million dollars worth of goods and services to the federal government in 1994. That ranks it 54th among the "Top 100 Federal Contractors", ahead of Motorola, Chrysler, and Xerox.

Under the Government-wide Federal Acquisition Regulation, FPI has been designated as a "required source of supply" for federal government purchasing. Simply put, agencies must buy what FPI sells, or be granted a waiver by FPI. In essence, this status gives FPI a "superpreference" in government contracting, short circuiting the procurement process and depriving private sector firms of any opportunity to compete.

With the growth in the Federal prison population, FPI plans to expand its sales so that it employs approximately 25 percent of the ever-growing prison population. Understandably, many small businesses, that see their government sales evaporate into the mist of sole-source awards to FPI are outraged.

Over a year ago, small business representatives successfully persuaded Vice President Gore's National Performance Review to recommend that FPI's status as a mandatory source be eliminated and that FPI be required to compete commercially for federal business. At the 1995 White House Conference on Small Business, delegates ranked number 14 a recommendation that government entities be curtailed from competing unfairly with small firms.

Congressman Hoekstra and I have developed a legislative proposal to implement these recommendations. The bill would eliminate the mandatory source designation, limit FPI's reasonable share of a market to 20 percent of federal purchases of a particular product, and require it to perform its contractual obligations to the

Government just like any other supplier. So far, some twenty-four members have joined as co-sponsors.

I do not challenge FPI's mission of providing inmate rehabilitation and combating idleness. I believe our fair competition proposal strikes the right balance between the need for prison jobs and the threat to jobs in the private sector. It is supported by a broad based Competition in Contracting Act Coalition and several small business associations.

In previous testimony before Congress, FPI has consistently asserted that it makes quality products and delivers them on time at fair prices. Given that prison laborers are paid less than half the minimum wage, why can't FPI compete?

We have asked Steve Schwalb, FPI's CEO, to speak to why they believe the "mandatory source" designation is essential. Our other witnesses are from small businesses and will share their first hand experiences with FPI competition as well as the solutions offered by the bill.

In past hearings, I have found it constructive to impanel a representative from the Executive branch with small business witnesses and conduct a dialogue with Committee members.

I want to thank Steve Schwalb for his willingness to participate in this kind of forum this morning. I also want to thank all our small business witnesses who have come from all across the country.

This Committee is not the Committee of jurisdiction for the legislative proposal. The Judiciary Committee is. We will make a record of this hearing and provide it to the Judiciary Committee and other interested members. There is similar, companion legislation which has been introduced in the Senate by Senator Carl Levin and Spencer Abraham. I believe we will see progress on this issue this session of Congress.

REMARKS OF THE HONORABLE DONALD MANZULLO

"Small Business Competition for Federal Contracts:The Impact of Federal Prison Industries"

June 27, 1996 10.00AM in Room 2359 RHOB

Madam Chair, I commend you for holding hearings today on this sleeper issue. Federal Prison Industries is taking jobs away from many law-abiding citizens in this nation. Many people are concerned about their future job security or where their next job will come from. If it is in one of the 85 industries FPI already is in, then look out!

I understand the need to control a potentially violent prison population. But there must be a better way to train prisoners for the outside world than to have them unfairly compete against small businesses for the precious few contracts with the federal government. Law-abiding citizens -- the forgotten Americans -- who get up every day, dress their kids for school, and set off for a long hard day of work, shouldn't be sacrificed for the rehabilitation benefits of convicted rapists and murderers. The message to the forgotten American coming from FPI is if you want a job, commit a crime. That's not the American way!

PAGE 2

John Miceli of Marengo, Illinois makes draperies and other window treatments for homes and businesses throughout northern Illinois. John wants to expand his market and job opportunities for the youth in this small, rural town. He has spent countless hours and thousands of dollars to buy equipment so that he can find potential sales opportunities with the federal government. However, almost every contract he thinks he can win comes with the caveat that FPI can take this opportunity away from him -- no questions asked. Is that what the free enterprise system is about?

I support legislation introduced by you, Madam Chair, and Peter Hoekstra of Michigan, along with Senators Abraham and Levin, to simply require that FPI compete like every other business for contracts with the federal government. FPI already has many advantages off the bat, such as a captive below minimum wage work force and no health care, worker's compensation, or other benefits to pay for. Even with these advantages, small businesses still believe they can win contracts because there have been many complaints about the quality of the work and the timeliness of completion of contracts associated with FPI.

PAGE 3

Madam Chair, let's allow small businesses to compete against this monopoly power over federal contracts in 85 industries. We should be sending the message to the forgotten American that if you play by the rules, you should have a fair shot at all the opportunities this society has to offer. No one should feel that criminals are given better treatment than law-abiding citizens. Thank you, Madam Chair, and I look forward to the testimony of our witnesses.

FULL COMMITTEE HEARING ON SMALL BUSINESS COMPETITION
FOR FEDERAL CONTRACTS

Opening Statement of Congressman Glenn Poshard

June 27, 1996

Madame Chairman and members of the committee, I regret that I am unable to attend this hearing, but I am attending a funeral for my good friend and neighbor, former Congressman Bill Emerson. I am submitting this statement with two questions in writing which I would appreciate addressed. I thank you for convening this hearing today on small business competition for federal contracts. This is an issue that deserves our attention because it deals with two pressing needs: the ability to rehabilitate and occupy inmates while not placing our local businesses at a competitive disadvantage.

This issue is a complex one for me because people in my district have very genuine interests on both sides of this issue. On one hand, my district is home to the United States Prison at Marion, which once was the most secure prison in the nation, and is still today one of the highest security institutions in our federal prison system. The Federal Prison Industries program has proven effective at keeping inmates occupied and reducing violent behavior. In a facility such as Marion, keeping inmates involved in constructive activities helps increase personal security for inmates and staff alike. Additionally, I represent a glove factory, and other small businesses who have real concerns about their ability to compete with the goods produced by the prison industries program.

As indicated previously I have two questions to which I would respectfully ask the Bureau to respond.

- 1) What is the FPI's value to the BOP; what would it cost to replace this program with one dependent on appropriated funds?
- 2) In your testimony, you alluded to the fact that studies have been conducted on the FPI program. Can you explain what that research studied and the findings?

Madame Chairman, thank you for holding this hearing and for excusing my absence due to the tragic death of our friend and colleague, Congressman Bill Emerson. I look forward to reviewing the transcripts and working with the committee to follow up on the important issues being raised.

STATEMENT OF FLOYD H. FLAKE BEFORE THE HOUSE COMMITTEE ON
SMALL BUSINESS HEARING ON SMALL BUSINESS COMPETITION FOR
FEDERAL CONTRACTS: THE IMPACT OF FEDERAL PRISON INDUSTRIES.
JUNE 27, 1996

THANK YOU, MADAM CHAIR, FOR CONVENING THIS HEARING TODAY. WE ALL RECOGNIZE THAT AS FEDERAL PRISON POPULATIONS INCREASE, THE IMPACT OF FEDERAL PRISON INDUSTRIES WILL GROW AS WELL. THE TIME HAS COME TO RE-EXAMINE ISSUES OF FAIR COMPETITION AND THE NEGATIVE REPERCUSSIONS FPI HAS ON SMALL BUSINESSES IN FEDERAL PROCUREMENT.

UNDER PARTICULAR SCRUTINY TODAY IS THE SO-CALLED SUPER-PREFERENCE, A CONTROVERSIAL PRIVILEGE GRANTED TO FPI. IN SOME INDUSTRIES IN PARTICULAR, FPI HAS MANAGED TO CAPTURE ALMOST 50% OF MARKET SHARE IN FEDERAL PROCUREMENT. THIS OBVIOUSLY POSES UNDUE BURDEN ON THOSE PARTICULAR INDUSTRIES.

AT THE SAME TIME, FPI CONTINUES TO OCCUPY LESS THAN 1/5 OF 1% OF TOTAL FEDERAL PROCUREMENT. I BELIEVE IT IS ESSENTIAL TO REMEMBER THAT FPI SERVES AN INVALUABLE PURPOSE IN OUR SOCIETY. IT HELPS MAINTAIN ORDER AND GIVES INMATES A SENSE OF USEFULNESS IN PRISONS IN WHICH

FPI OPERATES. IT GIVES INMATES VALUABLE SKILLS THEY MIGHT USE AFTER RELEASE, THEREBY, IT IS HOPED, REDUCING RECIDIVISM RATES. VIEWED IN THIS LIGHT, FPI SERVES A COMPELLING GOVERNMENT INTEREST.

THEREFORE, I LOOK FORWARD TO OUR DISCUSSION TODAY AND ANTICIPATE A PRODUCTIVE DIALOGUE THAT WILL BOTH AFFIRM THE VALUE OF FPI AND MOVE TO ENSURE FAIR COMPETITION WITH AFFECTED SMALL BUSINESSES.

VAN HILLEARY
4TH DISTRICT TENNESSEE
ASSISTANT MAJORITY WHIP

COMMITTEES
COMMITTEE ON NATIONAL SECURITY
SUBCOMMITTEE ON MILITARY INSTALLATIONS
AND FACILITIES
SUBCOMMITTEE ON MILITARY RESEARCH
AND DEVELOPMENT

COMMITTEE ON SCIENCE
SUBCOMMITTEE ON SPACE
AND AERONAUTICS
SUBCOMMITTEE ON BASIC RESEARCH

COMMITTEE ON SMALL BUSINESS
SUBCOMMITTEE ON PAPERWORK
AND REGULATION



Congress of the United States

House of Representatives

Washington, DC 20515

OPENING STATEMENT OF

REP. VAN HILLEARY

SMALL BUSINESS COMMITTEE

HEARING ON

THE IMPACT OF FEDERAL PRISON INDUSTRIES

June 27, 1996

WASHINGTON OFFICE
ROOM 114 CANNON BUILDING
WASHINGTON, DC 20515
TELEPHONE: 202-225-4831

DISTRICT OFFICES

CROSSVILLE
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TULLAHOMA, TN 37388
615-393-4764

MORRISTOWN
400 W. MAIN STREET
SUITE 304
MORRISTOWN, TN 37814
423-587-0396

Thank you Madam Chairwoman.

Madam Chairwoman, I greatly appreciate you providing this opportunity for this committee to explore the problems with Federal Prison Industries.

Last year, Federal Prison Industries (FPI) announced plans to greatly expand manufacturing of work clothing and protective clothing for the federal government. Because of its "super preference," FPI is able to take these contracts away from private industry which, otherwise, would compete for them.

This action is only the latest in a series of takings by FPI, but it raises questions about FPI's effect on our military readiness and on the health of the domestic apparel contracting industry. As a small businessman in the textile manufacturing industry, veteran of the Gulf War, and a member of both the National Security and Small Business Committees, I have a deep interest in this issue from several perspectives.

Last fall, I arranged a briefing for several of my colleagues who represent textile and apparel manufacturing firms to educate them on the dangers of expanding FPI's marketshare in critical industries. I organized a letter from my colleagues in the Tennessee delegation to the Chairman of the Judiciary Committee requesting that his committee hold hearings on the impact of current FPI practices.

Additionally, I also organized letters of inquiry to the Justice Department and the Defense Department requesting information on the effects of FPI's expansion of production. The responses I received are eye-opening, particularly from the Department of Defense.

Madam Chairwoman, I am including copies of this correspondence for the record.

Throughout history, contractors from the private sector have responded to the Defense Department's need for apparel and other products. In time of war or other national emergency, these contractors have provided the military the products it needed to defend the national interest. This was particularly in evidence during Desert Storm. In Fiscal Year 1990, the Defense Department purchased \$884 million worth of clothing from the private sector. The following year, reflecting the Desert Storm buildup, the Department purchased \$1.281 billion worth of clothing.

I question whether Federal Prison Industries would have the ability to respond to such a surge requirement from the military. It seems to me that the Defense Department requires a readily expandable industrial base to cater to its urgent need in time of emergency. I am very skeptical that Prison Industries can meet such this challenge. FPI already has difficulty serving

its current customers.

In a letter I recently received from the Defense Personnel Support Center (DPSC), they report that FPI is delinquent on 42% of its delivery schedule. Being late in performance during wartime can cost American lives and is therefore unacceptable.

Further, DPSC reports that FPI's prices are an average of 13% higher than the prices the government pays for the same product purchased from the private sector.

That's 13% of the hard-earned dollars that taxpayers sent to Washington to be spent wisely. That's 13% that can't be used to pay for the items needed to support the troops that defend our country.

Serving on the National Security Committee, I know our defense budget has no extra funding to waste on paying more than necessary for any products. Soldiers are putting their lives on the line and I will do everything I possibly can to ensure they have all the equipment and tools they need to perform their mission and return home safely.

I am also concerned that FPI uses their government preference to take work away from an industry which is besieged by low-cost imports and stiff competition in its domestic market.

The U.S. apparel industry has lost half of its commercial market to imports and has seen its employment decline from 1.4 million persons in 1973 to just under 1 million last year. More urgently, apparel industry employment has plunged from 994,000 in June of 1993 to 895,000 in June of 1995, the lowest total since the Department of Labor began collecting the data 31 years ago.

Currently, domestic apparel production is flat, imports are up 18 percent, retail prices have declined by 3 percent and unemployment has grown by 3 percent. Having worked in a small apparel manufacturing firm I know there is no room in the commercial market for government contractors who have lost business to FPI.

Just as important, FPI claims to be training inmates for employment in the civilian sector once they are released. In the case of apparel production, FPI is training inmates for jobs that will not exist on the outside.

I support the idea of requiring prisoners to work. However, it just doesn't make sense that work should be done in an industry as important to defense mobilization as the apparel industry. It just doesn't make sense that it should be done in an industry undergoing the downsizing that is occurring in the domestic apparel industry.

The members of the committee at this hearing will hear testimony from a constituent of mine who works at Tennessee Apparel Co. in Tullahoma, Tennessee about how FPI is taking jobs away from hard-working, law-abiding taxpayers in my district. And I want to remind my colleagues that the situation faced by Tennessee Apparel is not unique.

This hearing is appropriate and necessary for drawing attention to some of the problems in Federal Prison Industries and the need for amending the laws authorizing FPI.

I look forward to listening to the testimony from our distinguished witnesses and yield back the balance of my time.

Congress of the United States
Washington, DC 20515

November 8, 1995

The Honorable Henry Hyde
Chairman
Judiciary Committee
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Hyde:

Federal Prison Industries (FPI) recently announced that it plans to greatly expand manufacturing of work clothing and protective clothing for the federal government. Because of its "super preference," FPI will be able to take these contracts away from private industry which, otherwise, would bid on them.

This action is only the latest in a series of takings by FPI, but it raises questions about FPI's effect on our military readiness and on the health of the domestic apparel contracting industry.

Throughout history, contractors from the private sector have responded to the Defense Department's need for apparel and other products. In time of war or other national emergency, these contractors have provided the military the products it needed to defend the national interest. This was particularly in evidence during Desert Storm. In Fiscal Year 1990, the Defense Department purchased \$884 million worth of clothing from the private sector. The following year, reflecting the Desert Storm buildup, the Department purchased \$1,281 million worth of clothing.

We question whether Federal Prison Industries would have the ability to respond to such a surge requirement from the military. It seems to me that the Defense Department requires a readily expandable industrial base to cater to its urgent need in time of emergency. It is extremely doubtful that Prison Industries could meet such a challenge. FPI appears to have difficulty serving its current customers. It has been delinquent on delivery on seven of 15 contracts.

Moreover, FPI uses their government preference to take work away from an industry which is besieged by low-cost imports and stiff competition in its domestic market.

The U.S. apparel industry has lost half of its commercial market to imports and has seen its employment decline from 1.4 million persons in 1973 to just under 1 million last year. More urgently, apparel industry employment has plunged from 994,000 in June of 1993 to 895,000 in June of 1995, the lowest total since the Department of Labor began collecting the data 31 years ago. This year, domestic apparel production is flat, imports are up 18 percent, retail prices have declined by 3 percent and unemployment has grown by 3 percent. Clearly, there is no room in the commercial market for government contractors who have lost business to FPI.

Just as important, FPI claims to be training inmates for employment in the civilian sector once they are released. In the case of apparel production, FPI is training inmates for jobs that will not exist on the outside.

We fully understand and agree with the idea of requiring prisoners to work. We question, however, whether that work should be done in an industry as important to defense mobilization as the apparel industry and whether it should be done in an industry undergoing the downsizing that is occurring in the domestic apparel industry.

We would hope that the Judiciary Committee would hold oversight hearings on the operation of Federal Prison Industries at the earliest opportunity. Such hearings could explore four subjects:

1. The impact of FPI on defense procurement programs in time of emergency.
2. The impact of FPI on an industry already severely threatened by imports from low-wage countries.
3. Whether FPI is pursuing the correct mission in training workers for a declining industry.
4. The guidelines under which FPI exercises its preference rights.

We also would ask that the Judiciary Committee suggest to FPI that it delay any action on the work clothing and protective clothing until after the oversight hearings take place.

If you have any questions about this request or about this situation, we would be happy to respond.

Sincerely,

Van Hilleary
James H. Quinn
Zach Wamp
Pat Gordon

[Signature]
John L. Duncanson
B. B. Clement

Congress of the United States

Washington, DC 20515

December 20, 1995

The Honorable Janet Reno
Attorney General of the United States
U.S. Department of Justice
Tenth Street and Constitution Avenue NW
Washington, D.C. 20530

Dear Madam Attorney General:

Federal Prison Industries (FPI) recently announced that it plans to greatly expand manufacturing of work clothing and protective clothing for the federal government. Because of its "super preference," FPI will be able to take these contracts away from private industry which, otherwise, would compete for them.

This action is only the latest in a series of takings by FPI, but it raises questions about FPI's effect on our military readiness and on the health of the domestic apparel contracting industry.

Throughout history, contractors from the private sector have responded to the Defense Department's need for apparel and other products. In time of war or other national emergency, these contractors have provided the military the products it needed to defend the national interest. This was particularly in evidence during Desert Storm. In Fiscal Year 1990, the Defense Department purchased \$884 million worth of clothing from the private sector. The following year, reflecting the Desert Storm buildup, the Department purchased \$1,281 million worth of clothing.

We question whether Federal Prison Industries would have the ability to respond to such a surge requirement from the military. It seems to me that the Defense Department requires a readily expandable industrial base to cater to its urgent need in time of emergency. It is extremely doubtful that Prison Industries could meet such a challenge. FPI appears to have difficulty serving its current customers. It has been delinquent on delivery on seven of 15 contracts.

Moreover, FPI uses their government preference to take work away from an industry which is besieged by low-cost imports and stiff competition in its domestic market.

The U.S. apparel industry has lost half of its commercial market to imports and has seen its employment decline from 1.4 million persons in 1973 to just under 1 million last year. More urgently, apparel industry employment has plunged from 994,000 in June of 1993 to 895,000 in June of 1995, the lowest total since the Department of Labor began collecting the data 31 years ago. This year, domestic apparel production is flat, imports are up 18 percent, retail prices have declined by 3 percent and unemployment has grown by 3 percent. Clearly, there is no room in the commercial market for government contractors who have lost business to FPI.

Just as important, FPI claims to be training inmates for employment in the civilian sector once they are released. In the case of apparel production, FPI is training inmates for jobs that will not exist on the outside.

We fully understand and agree with the idea of requiring prisoners to work. We question, however, whether that work should be done in an industry as important to defense mobilization as the apparel industry and whether it should be done in an industry undergoing the downsizing that is occurring in the domestic apparel industry.

We respectfully request that the Justice Department conduct an investigation into the Federal Prison Industries at the earliest possible opportunity. We request that the Justice Department provide us with a report on these subjects:

1. The impact of FPI on the apparel manufacturing industry which is already severely threatened by imports from low-wage countries.
2. The rationale for FPI training workers for a declining industry.
3. The guidelines under which FPI exercises its preference rights.

We also ask that you instruct the FPI Board of Directors to delay any decision to expand their production of work clothing and protective clothing until after the investigation takes place.

If you have any questions about this request or about this situation, we would be happy to respond.

Sincerely,

Van Hilleary

[Signature]

James H. Smith

Zach Womp

John J. [Signature]

Paul [Signature]

Congress of the United States
Washington, DC 20515

December 20, 1995

The Honorable William J. Perry
Secretary of Defense
Department of Defense
The Pentagon
Washington, D. C. 20301-1155

Dear Mr. Secretary:

Federal Prison Industries (FPI) recently announced that it plans to greatly expand manufacturing of work clothing and protective clothing for the federal government. Because of its "super preference," FPI will be able to take these contracts away from private industry which, otherwise, would compete for them.

This raises questions about FPI's effect on our military readiness. Throughout history, contractors from the private sector have responded to the Defense Department's need for apparel and other products. In time of war or other national emergency, these contractors have provided the military the products it needed to defend the national interest. This was particularly in evidence during Desert Storm. In Fiscal Year 1990, the Defense Department purchased \$884 million worth of clothing from the private sector. The following year, reflecting the Desert Storm buildup, the Department purchased \$1,281 million worth of clothing.

We question whether Federal Prison Industries would have the ability to respond to such a surge requirement from the military. It seems to me that the Defense Department requires a readily expandable industrial base to cater to its urgent need in time of emergency. It is extremely doubtful that Prison Industries could meet such a challenge. FPI appears to have difficulty serving its current customers. It has been delinquent on delivery on seven of 15 contracts.

We question whether FPI should take more of the market share in an industry as important to defense mobilization as the apparel industry and whether it should be done in an industry undergoing the downsizing that is occurring in the domestic apparel industry.

We respectfully request that the Office of the Secretary of Defense conduct an investigation into the effect an increase in market share by Federal Prison Industries would have on readiness. We request that the Office of the Secretary of Defense provide us with a report on the impact of FPI on defense procurement programs in time of emergency, specifically how could a weakened apparel manufacturing industry effect readiness in a national emergency.

If you have any questions about this request or about this situation, we would be happy to respond.

Sincerely,

Van Hilleary

James H. Quinn

For [unclear]

[unclear]

Zach Womp

Bert Goshen



U.S. Department of Justice
Federal Bureau of Prisons

Washington, DC 20534

January 23, 1996

The Honorable Van Hilleary
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Hilleary:

This is in response to your recent letter to the Attorney General that was jointly signed by five other members of Congress concerning requests by Federal Prison Industries (FPI) to increase production of work and protective clothing. As a result of the dramatic and ongoing increases in the Bureau of Prisons' inmate population, FPI has had to deal with the difficult problem of providing meaningful employment to an ever increasing number of inmates.

FPI is the primary correctional program of the Bureau of Prisons (BOP) and is essential in managing the extremely crowded correctional institutions. As the number of inmates in BOP custody continues to increase, so too must the number of inmates employed by FPI. By law, FPI can sell only to the Federal government and must fund all operating costs, such as staff salaries, raw materials and equipment, from the sale of its products and services, with no appropriated funds. The "mandatory procurement preference", by assuring a steady flow of business to FPI, is vital to our mission of providing appropriate work experience to inmates. Legislation and operating guidelines covering the mandatory preference include section 4124 of Title 15, U.S. Code and subpart 3.6 of the Federal Acquisition Regulation.

Congress requires an "Industry Involvement Guidelines Process" when FPI considers any significant expansion or production of any new product. The heart of this process involves the preparation of a detailed competitive impact study (copies enclosed) which is provided to interested parties for review and comment. The process provides ample opportunity for private industry to present its concerns to FPI's Presidentially

appointed Board of Directors. The Board considers the findings of the study and industry's comments and then determines whether a proposed new product may be produced or whether a proposed expansion of an existing product should be approved, and what the reasonable market share should be with regard to the specific product in question. FPI is currently pursuing expansion in several product categories, including work and protective clothing. The Board convened December 8, 1995, to listen to, and evaluate, comments and concerns of representatives of these industries about FPI's proposed expansions.

Your letter expressed concern that FPI may not have the flexibility to meet Department of Defense (DoD) emergency needs. For the most part, the factories operated by FPI have substantial flexibility to increase production, including double and triple shifts at many locations. While there are occasions, due to security reasons, when FPI factories cannot operate, those are generally localized and of very limited duration. To further minimize the likelihood of any adverse impact on customers in the exceptional event that this does occur, FPI has taken steps to develop redundant capacity within its factories, so that lower security factories provide back up to high security operations in the event one operation is down temporarily. Federal prison factories have been satisfying military requirements during peace and wartime for many generations and FPI was cited for its excellent response during Operation Desert Storm. (See page 6 of enclosed pamphlet: The Persian Gulf War - Federal Prison Industries.)

One of FPI's statutory mandates is to limit its burden on any industry. That is why FPI is extremely diversified and offers nearly 160 specific products. FPI has worked hard to minimize its impact on the private sector, especially in industries where smaller firms prevail. While FPI has made progress in other areas, the jobs created have been inadequate to support the growing prison population. For example, of the approximately 100,000 inmates in the federal prison system, only 3,500, or 3.5 percent, are employed in apparel production activities. (FPI's total inmate employment is about 17,500.) Compared to the 895,000 workers employed in the domestic apparel industry, FPI's 3,500 apparel production inmates have a miniscule impact on employment or the financial health of the industry.

FPI and the Bureau of Prisons have long recognized that inmates with work experience in a particular industry may not find related opportunities upon release. However, providing industrial-type work to inmates (many of whom have never been employed) helps to prepare them for eventual return to society. The FPI work experience is designed to develop a work ethic and the sense of responsibility necessary to succeed within society.

In some instances, the work experience gained with FPI will be beneficial in the individual's civilian employment by providing directly related skills. Due to statutory requirements to employ inmates in labor intensive activities and because of the capital required to employ an ever increasing number of inmates entering the federal prison system, there are limited opportunities available to FPI to employ significant numbers of inmates.

In 1991, the Bureau of Prisons published a report on the Post-Release Employment Project (PREP), a seven year research and evaluation study (copy enclosed) that compared inmates who participate in prison industries with inmates with similar backgrounds who did not work for FPI or receive vocational training. The PREP study found that inmates who participate in FPI demonstrate better institutional adjustment while incarcerated, are less likely to recidivate, more likely to be employed and more likely to earn higher wages after release than inmates who were not involved in prison industries during incarceration.

FPI has actively sought opportunities with private firms that would enable both FPI and the private sector to apply their unique advantages to various contract requirements. For example, FPI's production of extreme cold weather trousers relies on Tennessee Apparel Corporation to supply, not just the raw material, but cut component parts which FPI sews into completed final articles. This arrangement provides benefits to all concerned. FPI utilizes its low-cost inmate labor to perform the more labor-intensive manufacturing operations and saves on wasted material costs. Tennessee Apparel Corporation gains from the additional revenue and the extra utilization of both its fixed and variable resources while performing the more skilled aspects of the project. Finally, the customer, Defense Personnel Support Center, benefits from the timely delivery of a price-competitive, quality product. In essence, FPI adds a minor portion of value to the total value of the contract while, at the same time, enhancing the capabilities of Tennessee Apparel Corporation and assuring expanded surge capacity for potential emergency requirements. FPI believes there are many such opportunities that may contribute to the long-term viability of the domestic apparel industrial base. We look forward to working with our customers and private industry to develop a healthy mix of work for all parties.

Concerning your request that the FPI Board of Directors be instructed to delay any decision to expand production of work and protective clothing until after an investigation takes place, I can only note that the Board's authority is independent, having been established by Act of Congress, with its members being appointed by the President. In any event, the impact of FPI on

the apparel manufacturing industry was thoroughly investigated with findings presented to the Board. Private industry has also been provided the opportunity to present its comments to the Board for consideration. The Board has announced its intention to make a final decision as expeditiously as possible after giving full consideration to all information and comments presented.

If you have any additional questions concerning Federal Prison Industries, I would be happy to respond.

Sincerely,

Steve B. Schwalb
Steve Schwalb
Assistant Director
Industries, Education
& Vocational Training

Enclosures



U.S. Department of Justice

UNICOR

Federal Prison Industries, Inc.

Washington, DC 20534

FEDERAL PRISON INDUSTRIES
BOARD OF DIRECTORS DECISION
PROTECTIVE CLOTHING

The Board of Directors for Federal Prison Industries, Inc. (FPI) now issues its decision regarding FPI's proposal to significantly expand its production of protective clothing. As required by statute, FPI prepared a comprehensive impact study, which analyzed the potential impact, if any, that FPI's expansion of production may have on the private sector. FPI announced, in the August 21, 1995, edition of the Commerce Business Daily, its plans to present this proposal to the Board of Directors; described the procedures for obtaining a copy of the competitive impact study; and invited public comment on its proposal. Copies of the impact study analyzing the proposal to expand production of protective clothing were sent directly to the principal trade associations, various manufacturers, and other interested parties.

FPI received written comments on its proposal from several sources, prepared responses to those comments, and submitted all such information to FPI's Board of Directors, along with its request to expand production of protective clothing. Members of the Board reviewed all of the materials and heard in-person comments from industry representatives at an FPI Board of Directors meeting held in Washington, D.C. on December 8, 1995. The Board of Directors appreciates all parties who took the time and effort to comment. The written and oral comments were helpful in developing a clearer picture of the industry and its concerns.

In its competitive impact study, FPI proposed increasing its production in the protective clothing market from approximately \$18 million in FY 1995 to \$60 million in FY 2000. After review of all written materials submitted for the record, including the information submitted by FPI to support its growth proposal, comments by industry, and the oral testimony of industry representatives, the Board of Directors of Federal Prison Industries finds that the factual material in the impact study constitutes a reliable basis for its determination concerning market share. More specifically the Board makes the following

findings, as clarified by comments received from industry, both written and oral:

- o One segment of the protective clothing industry that was the subject of much discussion was that of bullet resistant, or protective, vests. It is clear from both the comments and the study that the bulk of the domestic protective vest business to date has been the result of purchases by state and local law enforcement agencies as well as individuals for their personal protection. Federal law enforcement agencies have only recently entered this market in a significant way. Since steady growth among federal law enforcement agencies is foreseen, and since FPI is limited to selling only to federal agencies, FPI's continued expansion will be in the form of new business, and in this sense it will be accomplished with minimal impact.
- o The record does not demonstrate that there are firms who specialize primarily in protective vests, which are dependent largely on the federal sector for their business. In any event, in response to questioning by the board, there was no evidence offered of any significant differences in the manufacturing processes for the non-federal market as compared to the federal market. Thus, it is reasonable to conclude that producers can shift from one market to the other with relative ease. Of course, while the overall commercial market is available to private firms, it is not to FPI.
- o Several of the oral comments were directed to the method of measurement of the federal market and the total domestic market for protective clothing. One commenter argued that the inclusion of the cost of the raw material in the fabrication of the protective clothing exaggerates the size of the market. It is true that FPI is only in the fabricator portion of the industry. For this reason, if the cost of the raw material is factored into the calculation of the size of the total market, it must also be factored into the cost of the items which comprise FPI's sales of these same items. In the same way if the cost of raw materials were taken out of the data that comprises the size of the market, then it would also have to be taken out of FPI's sales. As long as that is done consistently, as it has been in the market study, it is an apples-to-apples comparison, and the cost of raw materials does not distort the market size.
- o It is reasonable to conclude that FPI's impact on the industry will be ameliorated by growth in the industry. Though there is disagreement as to the rate of growth in the overall protective clothing industry, the Board believes

that the case has been made that the industry will continue to experience moderate growth in the segments in which FPI produces protective clothing. A growth rate of 3.5% above inflation seems reasonable, given (a) the move toward outfitting federal law enforcement officers with protective clothing, (b) a stabilized military troop level, (c) continued technological advances resulting in protection upgrade and/or replacement, and (d) ongoing safety and liability concerns related to health, security, and the environment.

The role of the board is to determine whether such expansion would result in FPI assuming more than a reasonable share of the market, and whether it would impact unduly on private industry. Based on the entire record, including the size of the federal and total domestic market, and the prospects for growth in that market, the Board believes that the sales levels proposed by FPI authorized represents a reasonable share of the market and that production at these levels will not impose an undue burden of competition on industry. Therefore, the Board authorizes FPI to increase production of protective clothing to the levels it proposed, as follows, with certain caveats:

FY 1996	\$27 million
FY 1997	38 million
FY 1998	45 million
FY 1999	52 million
FY 2000	60 million

The Board recognizes that it is difficult to achieve exact levels each year. It is therefore understood that FPI may exceed the annual limits by insubstantial amounts, so long as the aggregate over the 5 year period does not exceed \$222 million. Even though the sales levels equate to projected market share, as reflected in the study, primarily for ease of reference and tracking, it is the decision of the Board of Directors to use sales dollars, rather than market share, as the measure of expansion.

In addition to its current and semi-annual publication of sales data in the Commerce Business Daily, FPI will compile its sales in protective clothing at the end of each fiscal year, and provide a copy of this information to the industry association. Should the industry believe that circumstances such as (but not limited to) the overall industry growth rate or federal government purchases have changed sufficiently that FPI's authorized production is having a substantially greater impact than anticipated in this decision, the industry is invited to provide, at their convenience, such written information to the Board. The Board will carefully review this information and, if warranted, will amend FPI's authorized production levels.

The industry expressed concern that FPI should not concentrate its growth in any single segment of the protective clothing market, which could have the consequence of assuming up to 100% of that market segment. The Board appreciates the industry's apprehension regarding concentrated growth by FPI in any one segment of the protective clothing market such as protective vests, notwithstanding the statutory requirement to emphasize employment of inmates. It is the Board's position that FPI not take 100% of any specific protective clothing item, unless so requested by the customer. (There are occasions where, in order to both bolster the industrial base and improve procurement efficiencies, a federal customer may prefer that FPI take 100% of a particular product. This is generally offset by FPI waiving its production of a related item, to be produced by an alternate vendor.)

Currently, FPI is producing approximately \$6 million per year of soft body armor and approximately \$12 million of extreme cold weather garments. Other types of protective clothing which are under development for possible production by FPI include slash-resistant garments, flame resistant coveralls, fire resistant combat vehicle crewman undergarments and extreme cold weather undershirts. Thus, there are multiple items available to meet FPI's requirements, and the Board therefore directs that FPI not totally concentrate its production in any one segment of the protective clothing market.

In addition, also at the recommendation of commenters, the Board directs that FPI specifically not engage in production of charcoal chemical protective clothing, which was one of the areas of special concern expressed by industry. On the other hand, commenters offered suggestions concerning "labor intensive, low-end manufacturing" which may lend themselves to manufacture in a prison setting. The Board requests that FPI staff pursue such potential options with industry representatives.

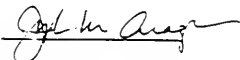
Furthermore, the Board requests FPI to explore with members of the protective clothing industry possibilities for cooperative efforts, such as subcontracting, in order to lessen FPI's impact on the private sector, and to pursue job placement of qualified inmates upon release within the industry. The intent of these efforts is to work together to expand opportunities for private industry; provide better quality products at lower costs to the federal customers; and enhance employability of federal inmates upon their release.

The Board also notes for the record that, while FPI must be self-sufficient, the principal emphasis of increased sales should be

the creation of additional inmate jobs, which teach work skills and enhance the prospects for employment and successful reintegration upon release.

Decided this 6th day of February, 1996.

For the Board:



Joseph M. Aragon
Chairman



U.S. Department of Justice

Federal Bureau of Prisons

Washington, DC 20534

February 13, 1996

The Honorable Van Hilleary
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Hilleary:

Recently, you contacted us concerning the proposal by Federal Prison Industries (FPI) to expand its production of protective clothing. In our response dated January 23, 1996, we indicated that FPI's Board of Directors would soon be making its decision concerning this proposal, following the public hearings held in early December of 1995. Enclosed is a copy of their final decision.

If you have any additional questions, please do not hesitate to contact me.

Sincerely,

Steve Schwalb
Assistant Director
Industries, Education
Vocational Training



Y REPLY
REFER TO

DDAS

DEFENSE LOGISTICS AGENCY
HEADQUARTERS
8725 JOHN J. KINGMAN ROAD, SUITE 2533
FT. BELVOIR, VIRGINIA 22060-6221



January 5, 1996

Honorable Van Hilleary
House of Representatives
Washington, D.C. 20515

Dear Congressman Hilleary:

This is in response to your letter of December 20, 1995 regarding Federal Prison Industries' (FPI) plan to expand manufacturing of work clothing and protective clothing for the federal government. You also requested a report on the impact of FPI on defense procurement programs in time of emergency, specifically the apparel manufacturing industry.

Additional information is being obtained from the Defense Personnel Support Center, a field activity of this Agency that purchases clothing for the Military Services. A further reply will be forwarded by January 18, 1996.

An identical response is being forwarded to Representatives Quillen, Duncan, Tanner, Wamp and Gordon.

Sincerely,

LLOYD C. ALDERMAN
Director
Small and Disadvantaged
Business Utilization





REPLY
REFER TO

DEFENSE LOGISTICS AGENCY
HEADQUARTERS
8725 JOHN J. KINGMAN ROAD, SUITE 2533
FT. BELVOIR, VIRGINIA 22060-6221



DDAS

January 31, 1996

Honorable Van Hilleary
House of Representatives
Washington, DC 20515

Dear Congressman Hilleary:

This is in further response to your letter of December 20, 1995, addressed to the Honorable William J. Perry, Secretary of Defense, regarding Federal Prison Industries' (FPI) impact on the military apparel industry. We provided an interim response to you on January 5, 1996.

The Federal Acquisition Regulation, Parts 8.602 and 8.605, which implements 18 USC 4124, requires all Federal purchasing activities to purchase items from FPI whenever FPI lists such items in its "Schedule of Products." However, in determining what items are suitable to be placed on its schedule, the law requires FPI to diversify its products so that no one private industry suffers unduly from its actions. Normally, FPI makes a determination as to its industry impact and market share for each product it places on the "Schedule of Products."

We are aware of the various concerns about FPI's impact on the private sector and on the readiness of the armed services. Of special concern to the Defense Personnel Support Center (DPSC) is the fact that the production base for military apparel is extremely limited and consists mostly of small privately held firms. The result of an informal impact study revealed that while DPSC's business represents only 2 percent of the apparel industry's total production in the U.S., DPSC furnishes its suppliers with between 80 percent and 100 percent of their manufacturing load. Additionally, the apparel industry in this country has been shrinking for quite some time now and employment is scarce in that field. Today, most clothing plants are situated in small, remote rural areas, and the loss of DPSC business can be especially adverse to their employees and the community.

Federal Recycling Program



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FPI and DPSC have agreed to work closely and continue an ongoing dialog regarding the selection of mandatory products and especially what the armed services consider "go-to-war" items. Through such agreements DPSC is attempting to reduce the impact that mandatory sources have on readiness and on the industrial base overall.

An identical response is being forwarded to Congressmen Hilleary, Quillen, Duncan, Wamp and Gordon.

We trust that this information will be helpful in understanding our position on this complex issue.

Sincerely,

~~WCSA~~

LLOYD C. ALDERMAN
Director
Small and Disadvantaged
Business Utilization

MEMORANDUM

To: Col. Robert L. Ward
From: John Webb
Congressman Van Hilleary
114 Cannon HOB
Washington, D C. 20515
Phone: 202-225-6831
Subject: FPI/UNICOR
Date: April 19, 1996

I would appreciate the information in as much detail as possible.

1. Cost, quality and delivery comparisons on like items between FPI and commercial contractors.
2. An explanation of the procedure you are required to use in determining which contracts must go to one of the mandatory source suppliers.
3. A copy of the contract used for FPI and contractors. Please include a sample contract for each with a comparison on how they differ.
4. A listing of all of the items which FPI produces and the percentage of each item of total production available. We are very interested in items that FPI may want 100% production.
5. If DPSC is not satisfied with cost, quality or deliveries what is their recourse? Can they terminate a contract under any circumstance. Very interested in the difference between the way DPSC functions with FPI and commercial contractors.
6. If FPI had to compete with commercial contractors how do you think they would do? Why?
7. What kinds of problems do you have with FPI meeting the terms of their contracts.

Thank You Very Much For Your Cooperation.



DEFENSE LOGISTICS AGENCY
DEFENSE PERSONNEL SUPPORT CENTER
 2800 SOUTH 20TH STREET
 PHILADELPHIA, PENNSYLVANIA 19145-5099



IN REPLY
 REFER TO

MAY 3 1996

D

Honorable Van Hilleary
 House of Representatives
 Washington, DC 20515

Dear Congressman Hilleary:

This is in reply to your April 19, 1996 memorandum regarding the differences between doing business with the Federal Prison Industries/UNICOR and contracting with commercial industry.

In response to your questions, comparative statistics on quality are not maintained by DPSC's Directorate of Clothing and Textiles, but FPI's quality is currently satisfactory overall. Preliminary results of an ongoing study indicate that FPI had a 42% delinquency rate compared to industry's 6% for items made by both FPI and commercial industry from 1992 to 1995. FPI's prices were an average of 13% higher than the commercial sector's for thirteen of fifteen clothing and textiles items manufactured during this period. FPI's overall delinquency rate averaged 38% over the last six months with industry's at well under 10%.

The Federal Acquisition Regulation, Parts 8.602 and 8.605 which implement Title 18 USC 4124, require Federal agencies to purchase all supplies which are listed on a schedule of products made in Federal penal and correctional institutions. FPI's clearance must be obtained before the items can be purchased from other sources.

An FPI order and a contract with a commercial firm are enclosed. Most of the clauses are the same; nonetheless, the FPI orders do not grant the Government the same rights as a contract with a commercial firm. Specifically the FPI orders do not contain dispute or default clauses, provisions which are mandatory in commercial contracts and which allow efficient contract administration. However, any dispute with FPI over price, quality, character, or suitability of supplies is subject to binding arbitration before a board composed of the Comptroller General of the United States, the Administrator of the General Services Administration, and the President, or their representatives. DPSC, therefore, has no recourse but to attempt diplomacy when resolving difficulties with FPI orders. There is no practicable way to terminate a contract or to recoup monies that would normally be owed by a commercial firm.

A list of the items manufactured by FPI is also enclosed. It should be noted that some of the nomenclature represents a class of items. For example, FPI manufactures thirteen tarpaulins for DPSC whereas the item only appears once on the list. This list is representative, however, of the items FPI furnishes DPSC. Historically FPI claimed the entire quantities of its items but is now moving towards allowing industry to assume a portion of the Services' requirements.

With the advent of best-value, source-selection acquisition, past performance (delivery history) and price are the two primary determinants for awarding contracts. Therefore, FPI might find it difficult to compete in today's market for military clothing items.

We trust that this information will be of assistance in clarifying DPSC's position on this complex issue.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Allen", written over a diagonal line.

GEORGE H. ALLEN
Deputy Commander


 REPLY TO
ATTENTION OF

 DEPARTMENT OF THE ARMY
HEADQUARTERS, U.S. ARMY SOLDIER SYSTEMS COMMAND (PROV)
NATICK, MA

01760-5000



20 July 1995

American Apparel Manufacturers Association
ATTN: G. Stewart Boswell, President
2500 Wilson Blvd, Suite 301
Arlington, VA 22201

Dear Mr. Boswell:

The U.S. Army Soldier Systems Command (SSCOM) has responsibility for the research, development, engineering and transition to production of protective clothing for the U.S. Army and in some cases for all services. In this capacity we provide the following comments related to the Federal Prison Industry's proposal to expand their production of apparel products. We have no concerns with the FPI involvement with work clothing and non-protective items. However, we are concerned with the expansion of FPI involvement with protective clothing. Chemical and ballistic protective clothing is essential life support apparel. As such, our concern is that production be accomplished by the most qualified manufacturer. Only through open competition and best value contracting may the most qualified be determined; if FPI captures the market there will be no such open competition. It is difficult for the private sector of the industry to compete with the FPI which has first choice of contracts which qualify as set aside. As a result, the manufacturing base, which is most often the same sources sought for development contracts, is having difficulty maintaining enough work to stay in business. In view of our concerns and past experience we request careful consideration be taken when evaluating FPI's proposal.

Sincerely,

 ROBERT W. LEWIS
Deputy, Soldier Systems Command

TESTIMONY OF CONGRESSMAN PETE HOEKSTRA**BEFORE THE HOUSE COMMITTEE ON SMALL BUSINESS****HEARING ON SMALL BUSINESS COMPETITION FOR FEDERAL CONTRACTS:
THE IMPACT OF FEDERAL PRISON INDUSTRIES****THURSDAY, JUNE 27, 1996**

Good Morning. I am pleased to be here today as a guest of Chairwoman Jan Meyers and other Small Business committee members to explore and discuss important issues surrounding the operation of factories in federal prison facilities that compete directly with private industry. The factories, controlled and managed by Federal Prison Industries (FPI), produce products which unfairly compete with private-sector suppliers for federal government procurement dollars. FPI is granted a "super-preference" under current federal law and designated as a mandatory source of supply for all federal purchases. Federal Prison Industries, through the operation of the mandatory source rule, is able to flip the normal seller-buyer relationship on its head. Only in this odd situation does the seller – Federal Prison Industries – have the authority to tell the buyer – the federal government and American taxpayers – from whom it can purchase products and services. In normal commercial dealings the seller must convince the buyer to part with his funds in order to purchase the seller's product. In the federal system, all FPI has to say is, "We can supply the product you are looking to buy. You must purchase the product from us."

What effect does this ability to create a market by fiat have on the private sector and small business in particular? The effect is devastating as FPI expands its product lines and increases its current share of federal purchasing markets. Federal Prison Industries currently produces 150 products and has plans to expand its current share of federal purchases of office furniture systems, dorm and quarters furniture, work clothing and protective clothing between now and the year 2000. Expansions in office seating and furniture casegood products are pending before the FPI governing board. In addition FPI has also announced its intention to move into new markets involving shipping containers and steel doors. All of these decisions pile injury on top of injury as FPI aggressively uses its sole source of supply status to beat up on American industry.

FPI's decision to predatorially expand its already strong position in office furniture markets will have a direct and negative impact on the furniture industry firms and suppliers in West Michigan and across the country. The announcement that FPI will attempt to increase its sales of office furniture products from \$80 million in 1996 to \$130 million in 2000 will have ripple effects across local economies in West Michigan. Small manufacturers and suppliers will be hardest hit because they can least afford to lose business to direct competition from the federal government. Furniture industry analysts estimate that this expansion could lead to the loss of over 1,400 jobs

in the U.S. private sector, many of which are located in and around my district.

At its heart the issue here is whether or not the federal government should be allowed to eliminate even the possibility of competition with private-sector firms and thereby substitute prison industry jobs for private sector jobs. I am pleased to join Chairwoman Jan Meyers in calling for the elimination of mandatory source status as recommended by Vice President Gore's National Performance Review. Federal Prison Industries should be required to compete with private sector business on the basis of price, quality, delivery and design, rather than being able to insulate itself from competition and dictate the share of the markets it wishes to supply. Repeal of mandatory source status guarantees that this competition will occur. Through this competition, FPI will be forced to earn its business by performing in a timely manner, offering a competitive price and delivering a product of quality and value for the limited federal procurement dollar. American taxpayers that pay for these purchases deserve nothing less.

Let me close by noting that I am not opposed to those who seek to require that prison inmates work while incarcerated in order for them to learn new skills and habits that will benefit them upon their release. I am opposed to those who take this laudable goal and seek to achieve it in ways that steal jobs away from American workers who obey the law and pay taxes to support the government. FPI should engage in production and manufacturing activities that are not profitable for private sector industries to engage in and that have moved overseas because labor costs, which are lower for prison industries, make private-sector production in the United States unprofitable. By redirecting FPI resources toward these efforts the goals of keeping inmates busy and giving them some experience in holding a job can be achieved without negative impacts on private-sector companies.

Federal Prison Industries could achieve this goal if it redirected its resources. Federal Prison Industries has recently focused much of its activity on reaching out to its federal procurement customers through improved marketing and customer relations. In a recent World Wide Web publication announcing Federal Prison Industries UNICOR Trade Expo 96, Federal Prison Industries Chief Operating Officer Steve Schwalb, a member of the panel at today's hearing, stated that, "We at UNICOR remain committed to making you a 'Zealous fan', one who comes to us, not because you have to, but because you want to." Senator Carl Levin has also stated that Mr. Schwalb has told him that FPI is "fully capable of competing with private industry for Federal Prison Industry contracts." If this is the case, FPI should support us in moving ahead with the repeal of the mandatory source rule in order to facilitate its refocusing its efforts to expand into efforts that do not compete directly with American industry.

Thank you again for inviting me to participate in today's hearing. I look forward to a frank discussion of the issues surrounding government competition with the private sector.

MAC COLLINS
30 DISTRICT, GEORGIA
COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEES:
HUMAN RESOURCES
SOCIAL SECURITY



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HOUSE OF REPRESENTATIVES

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The Honorable Mac Collins
Statement on Federal Prison Industries
June 27, 1996

As a small businessman myself, I understand the incredible challenges that business owners face in the best of circumstances. Perhaps that is why I find some recent actions of the Federal Prison Industries (FPI) particularly disturbing.

I appreciate the time and expense that a constituent of mine, Mr. Tim Graves of General Engineering Service, Incorporated, has expended in order to testify here today. His story provides a telling example of FPI's circumvention of statutory guidelines designed to protect small businesses from unfair and unwarranted capture of their market-share. I am certain that other Members will find his experience with FPI as outrageous as I have found it.

In more general terms, I think it is important to recognize the unfair advantage given FPI in the federal procurement process. Currently, the law provides FPI status as a mandatory source for the products that they manufacture. This superpreference has been used and continues to be used to put companies out of business and law-abiding citizens out of work.

While there are definite benefits to employing convicts, I do not believe that these benefits outweigh the interests of law-abiding taxpayers — individuals who already must provide criminals housing, shelter, and security. It is for this reason that I am cosponsoring the Meyers/Hoekstra legislation to reform the way FPI does business. It is time for Congress to level the playing field, particularly for the small business community.

By requiring FPI to participate in the federal bidding process and limiting capture of markets by FPI to 20% of a particular product, I am confident that Congress can ensure small businesses of continued access to federal contracts. This is consistent with the recommendations of both the Vice President's National Performance Review and of an independent study by Deloitte and Touche that was commissioned by Congress in 1990. Additionally, it is interesting to note that then Senator Gore cosponsored similar legislation in the 102nd Congress.

In talking to fellow Members about this legislation, I have found that there is broad interest on both sides of the aisle in providing a more equitable procedure for government procurement with respect to FPI. No one is suggesting that FPI be put out of business. My interest is simply that FPI offer the same benefit to the small businesses on which it continues to prey.

Statement of Congressman Thomas E. Petri
Congressman from the 6th District of Wisconsin
June 27, 1996
Before the House Committee on Small Business

Chairman Meyers, Ranking Minority Member LaFalce and Members of
the Committee.

I appreciate the opportunity to be with you today to discuss
Federal Prison Industries (FPI), and the impact of this Federally
mandated program on small business.

My district contains both the federal prison at Oxford,
Wisconsin, and an important manufacturing company that supplies
materials and services to FPI. Krueger International (KI) has
approximately 2,000 employees in its manufacturing facilities in Green
Bay, Gillett and Manitowoc, Wisconsin and Tupelo and Winona,
Mississippi. The largest single customer of KI is FPI.

Private sector businesses, like KI, vigorously compete for FPI's
business, and many of them are small businesses, who supply materials
and services either to companies like KI or directly to FPI. It
follows that if FPI's ability to do business were affected, as they
believe it would be by proposed legislation under discussion here
today, so too, would all the businesses, large and small, that have
invested years of effort in doing business with FPI.

I would like to submit for the record the "White Paper" prepared by Federal Prison Industries in March 1996 entitled "Addressing The Effect of Federal Prison Industries on The Private Sector in General and The Furniture Industry Specifically". The paper indicates that 100% of every dollar of FPI sales is returned to private sector businesses. Vendors, large and small, benefit from FPI's procurement from them of equipment, services and raw materials. Local businesses and communities also gain through monies spent by correctional staff, inmates and through FPI contracting with local vendors. The paper indicates that legislation which would "take away FPI's status as a mandatory source of federal supplies and require it to compete commercially for federal agencies' business" would have the consequence of a net loss of private sector jobs. I urge you and your staff to consider carefully the attached paper and its findings concerning private sector jobs in order to fully assess the overall impact of the legislation at hand.

The security of our prisons would also be significantly impacted by this proposed legislation. I believe the Federal Bureau of Prisons considers FPI to be its single, most critical correctional tool in managing the spiraling inmate population and overcrowding that now exceeds federal prison capacity by 24%. As our federal prison population continues to increase, the need for inmates to work has simultaneously become more crucial. By providing essential training and employment, FPI reduces the inmate idleness associated with prison disruption, thereby making the institutions and surrounding communities more safe and secure. A 1991 Post Employment Release Study has shown that the inmate worker is less likely to recidivate upon release than

the non-employed inmate which ultimately results in a cost savings to the American taxpayer. In these tough budget times we do not need to burden the taxpayer with costs that could be many millions of dollars if our prisons should erupt due to inmate idleness and boredom or the costs associated with increased rates of recidivism.

Finally, we must consider those men and women whose jobs and safety are put at risk by this proposed legislation. They are the thousands of federal employees who may spend their entire day in direct contact with inmates who we have decided are too dangerous for our streets and neighborhoods. They are the men and women who daily supervise the work of thousands of inmates who otherwise would be idle. They are the men and women who know that the dangerous consequences of inmate idleness and boredom in severely overcrowded conditions would be destruction of prison property and worse, serious injury and death to inmates and themselves. These people are our employees. We are the trustees of their lives and we have an obligation to them and their families not to put them in any greater jeopardy than is absolutely essential to maintaining our prisons. The destruction of the FPI program, which the proposed legislation would do, places these employees in added jeopardy.

For the reasons stated above, Madame Chairman and Members, I urge you to continue to support FPI in its current form.

ADDRESSING THE
EFFECT OF FEDERAL PRISON INDUSTRIES
ON
THE PRIVATE SECTOR IN GENERAL
AND
THE FURNITURE INDUSTRY SPECIFICALLY

Prepared by Federal Prison Industries
March 1996

INTRODUCTION

The December 1995 issue of Furniture Design and Manufacturing magazine contained an article about Federal Prison Industries (FPI) and the impact of an FPI proposal to expand its production of systems furniture. FPI believes that the information provided to the author to prepare that article was inaccurate, and unfairly portrayed FPI's overall impact on the private sector, as well as the specific effect FPI has on the furniture industry.

This paper provides data in support of three propositions which refute key furniture industry assertions:

- 1) Overall, FPI's impact is positive, not negative;
- 2) FPI's effect on the furniture industry has been greatly exaggerated and misrepresented; and
- 3) FPI creates more civilian jobs in systems furniture than it displaces.

BACKGROUND

Federal Prison Industries is a wholly-owned Government corporation created by statute in 1934. The enabling statute, as amended, requires that:

- FPI employ the greatest number of inmates practicable in the production of goods and services for sale exclusively to the Federal Government;
- Production be diversified as much as possible so as to minimize the impact on any single industry, and that FPI not produce more than a reasonable share of the Federal market;
- FPI operate in a self-sufficient manner, receiving no appropriated funds for its operations;
- FPI be governed by a Presidentially-appointed Board of Directors, which must approve significant expansion in the production of existing products; and
- Federal agencies buy FPI products provided the price, delivery and quality expectations of the customer are met.

FPI is a component within the Federal Bureau of Prisons, Department of Justice. FPI is responsible for creating job opportunities for approximately 25% of the sentenced Federal

inmate population. FPI's growth is driven exclusively by growth in the Federal inmate population which, in turn, is driven by public policy initiatives in law enforcement, prosecution and criminal sentencing. For decades, the Congress and Administration have been fully aware that increases in the Federal inmate population require both additional funding for the construction and operation of prisons, and the creation of more inmate jobs in FPI.

In order to create the necessary additional inmate jobs in several new prisons in Florida, FPI management proposed in mid-1995 that the Board of Directors approve an expansion in the production of systems furniture. The furniture industry was invited to respond to the Board about the impact of the proposed expansion. The furniture industry response to the Board, which also was used to develop information that was distributed to certain Congressional members and the media, prompted the development of this paper.

Proposition #1: FPI's Overall Impact is Positive, Not Negative

It is a common misconception that FPI has an overall adverse impact on the private sector. This perception, while intuitively appealing, is not supported by the facts. As outlined below, FPI has a very positive impact in a variety of areas.

• FPI Returns Every Cent of Its Sales to the Private Sector.

FPI's detractors use total FPI sales as a measure of adverse impact -- a fundamentally flawed approach which results in gross factual distortions.

As with any manufacturer, there are a variety of cost components associated with FPI's sales. In 1995, each dollar FPI received was spent as follows:

Raw Materials	56 cents
Staff Salaries	19 cents
Equipment, Services and Overhead	17 cents
Inmate Pay	7 cents
Activation of New Factories	<u>1 cent</u>
	\$1.00

Every cent is returned to the private sector. The raw materials, equipment and services are all procured from private sector vendors. In fact, numerous small businesses count on FPI as a customer for their livelihood. Staff salaries are spent in the local communities, creating private sector jobs for law-abiding citizens.

The funds paid to FPI's 17,000 inmate workers are used to pay court ordered fines, victim restitution, cost of incarceration fees, child support, and alimony. Inmates in FPI are required to pay 50% of their earnings toward these obligations in order to keep their jobs. These payments also serve to reduce public assistance costs. Inmates also use some of their funds to purchase personal hygiene and convenience items from Bureau of Prisons commissaries. These commissaries are self-supporting and all items sold to inmates are purchased directly from local businesses. Not only does this create local jobs, but requiring inmates to purchase these items reduces the overall cost to the taxpayers of operating Federal prisons.

The return of FPI's sales dollars to the private sector -- and FPI manufacturing itself -- generate civilian jobs for law-abiding citizens. While the furniture industry would have the public believe that without FPI there would be even more civilian jobs, reality refutes that assertion.

As a rule, the more individual businesses there are in a particular industry, the more jobs there will be, in the aggregate; as a corollary, when the number of businesses in an industry declines, the number of jobs normally will too. This economic phenomenon is generally applicable to the markets in which FPI competes, even if all the inmate workers are removed from consideration and only civilian jobs are compared. As a result, FPI's presence in many industries actually serves to resist the loss of civilian jobs in the industry as a whole.

Likewise, FPI's suppliers of raw materials and components actually would lose business if FPI left the market. If FPI's sales were absorbed by the private sector, suppliers to the remaining manufacturers likely would see an increase in business -- not the companies currently supplying FPI. This would be due to a variety of economic and geographic considerations. Also, because of economies of scale, and the way the principle of marginal costs operates, the number of additional jobs created among suppliers for existing manufacturers would be fewer than the number of jobs lost among suppliers to FPI. Again, the net impact on civilian jobs of eliminating FPI from the equation would be negative.

**FPI Contributes to the Safe, Cost-Efficient
Operation of Federal Prisons.**

All medically capable sentenced Federal inmates are required to work. Most inmate jobs involve the operation and maintenance of the prison, with approximately 25% of the inmates assigned to FPI jobs. The Bureau of Prisons regards FPI as its most important correctional program. FPI's work program instills the basic work ethic and constructively occupies an inmate's time; these factors contribute to the safe and orderly operation of a

prison. A safe, well-managed prison is not only a better place for staff to work and inmates to live, it is also a better neighbor. Numerous mayors and other local officials have publicly acknowledged that a Bureau of Prisons facility in their community not only contributes to the local economy and job base, but also enhances the public's perception of safety.

FPI does not receive appropriated funds for its operations. It pays its expenses from sales to its Federal customers -- purchases these agencies would make in any case. If FPI were not self-sufficient, Congress would need to increase the Bureau of Prisons' appropriation by several hundred million dollars annually. Thus, FPI lowers the cost of operating Federal prisons and thereby reduces the burden on American taxpayers.

• **FPI Reduces Crime and Enhances Public Safety.**

An extensive longitudinal research study has been conducted on the effects of FPI employment on an inmate's prospects for success upon release. The study, which tracked several thousand inmates for as long as 12 years after release concluded that inmates who worked in FPI while incarcerated were substantially more likely to find and retain employment, earn higher wages and remain crime free than inmates who did not work in FPI. While difficult to quantify precisely, the societal advantages of former inmates becoming taxpaying workers and not returning to a life of crime are both obvious and significant.

• **Summary**

Taking into consideration the collective impact of the dollars spent in procurements from the private sector, the number of civilian jobs created, the improved management of Federal prisons, the increase in public safety, the reduced burden on taxpayers and the reduction in crime, it is clear that FPI's overall effect is a very positive one. It is a program which is ultimately fulfilling the expectations of the American public and their elected representatives.

Proposition #2: FPI's Effect on the Furniture Industry Has Been Greatly Exaggerated and Misrepresented

The most significant area of exaggeration regarding FPI's impact on the furniture industry relates to estimations of FPI's impact on private sector jobs. The proposed FPI expansion in systems furniture would provide jobs at new correctional facilities for 44 civilian staff and 595 inmates. During the hearing on the proposed expansion, however, the Board of Directors was told by industry officials that such growth by FPI would cause the loss of 1,429 private sector jobs over the five years covered by the proposal (1996-2000).

The obvious question is, how is it that the private sector, which should be much more efficient than FPI, would have to displace more than twice as many workers as FPI would hire (most of whom are inmate workers), to generate the same level of sales? The answer lies in a combination of flawed mathematics and an intuitively appealing (but illogical) premise. This is demonstrated below.

• **The Industry Methodology Inflates the Total Sales Impact of FPI's Proposed Expansion**

The industry representatives told the Board that the average output of a private sector furniture factory worker is \$171,789 per year. They derived their projection of the number of lost jobs (1,429) by dividing their asserted per capita production (\$171,789) into a total sales figure of \$245.5 million. The derivation of this latter number (\$245.5 million) represents the first flaw in the methodology employed by the industry.

Below is a comparison of two methodologies used to determine the total increase in sales from FPI's expansion proposal, and thereby derive the prospective private sector job losses.

Comparison of Job Loss Based on Total Annual Sales Increases
(dollars in millions)

	Proper Methodology			Furniture Industry Methodology	
	Proposed FPI Systems Furniture Sales (annual)	Annual Increase in Sales	Jobs "Lost"	Annual Increase in Sales	Jobs "Lost"
FY 1996	\$ 75	\$ 4.5	26	\$ 4.5	26
FY 1997	108	33.0	192	37.5	218
FY 1998	125	17.0	99	54.5	317
FY 1999	140	15.0	87	69.5	405
FY 2000	150	10.0	58	79.5	463
	TOTALS	\$ 79.5	463	\$ 245.5	1,429

Note that the industry methodology uses a "cumulative" approach to determine the annual increase in sales, which greatly exaggerates the total increase in sales (\$245.5 million vs \$79.5 million) over the five year period as well as the impact on jobs. Instead of presuming that each job would last several years (regardless of how many incumbents may come and go), they count each job as being one year in duration and count the same job in the following years as a second, third, fourth and fifth job. Had they used the proper methodology, the job impact would have been derived by dividing \$79.5 million (not \$245.5 million) by

\$171,789, yielding 463, not 1,429. Thus, the industry methodology overstates FPI's prospective impact by over 300%.

Equally disappointing is the fact that, although the FPI Board of Directors has now issued its decision and has approved a lower sales level for systems furniture than FPI management requested, in recent press releases, media articles and letters to Members of Congress, the industry continues to cite 1,429 lost jobs as the measure of impact. Using the industry's faulty methodology, the impact of the approved sales level would be 1,091 jobs, not 1,429. Using the proper methodology -- which still does not take into account all relevant factors (as will be outlined below) -- the projected loss would be 346 jobs, not 463.

• **The Industry's Analysis Fails to Acknowledge
FPI Purchases from Private Sector Companies**

Using systems furniture again, of the \$70.5 million in FPI sales for FY 1995, \$51 million (72%) represents purchases from private sector furniture companies with whom FPI has competitively awarded contracts for space planning, design, material acquisition, technical assistance, and installation. These contractual relationships create private sector jobs; many more would be created by FPI's systems furniture expansion proposal. Any legitimate analysis of job impact should consider, and appropriately offset, projected job losses against the fully predictable additional private sector job growth that FPI's expansion would generate.

• **The Industry Methodology Does Not Take Into
Account Growth in the Commercial Market or
the Effects of Normal Business Conditions**

Sales to the Federal Government represent an average of only 3-4% of the total sales of private sector systems furniture companies. Thus, even if FPI's share of the Federal Government market were to increase, the effect on most companies would be negligible. Even the most modest growth in their private sector sales (which comprise 96-97% of their business) would more than offset any impact on their Federal sales.

Each company's systems furniture product is completely interchangeable between the Federal and private markets. Resources which might be committed to a declining Federal market can be readily re-directed to emerging private sector markets. Thus, it would be more accurate to say that, at the most, FPI's increased Federal market share might cause a re-deployment of resources and/or a slower rate of growth in creation of new private sector jobs.

When discussing job loss, the industry tends to isolate FPI as the cause. But when compared to the normal conditions which affect every industry, such as technological improvements, intra-industry competition, acquisitions, mergers, foreign competition, and routine turnovers due to attrition, the real-world impact of FPI in the displacement of employees is comparable to a rounding error -- virtually nil.

• **Summary**

The combination of methodological error and the unwillingness of the furniture industry to take into consideration offsetting job creation and commercial market activities render the industry's assertions about FPI's adverse impact illegitimate.

Proposition #3: FPI creates more civilian jobs in systems furniture than it displaces

It is common for FPI's detractors to suggest that inmates are taking civilian jobs. That is because it would inflame a law-abiding citizen -- and rightly so -- to think of losing his or her job to an inmate. All the arguments about teaching skills, preparing inmates for successful reintegration upon release, reducing recidivism, and providing for a safer and better managed prison for staff to work in, are compelling in the abstract. They are unpersuasive, however, when one's own livelihood is at risk.

If inmates were taking civilian jobs, one would expect a net increase in civilian systems furniture manufacturing jobs if FPI were to leave that market. However, as demonstrated below, even when inmates are excluded from the equation altogether, the opposite would occur.

• **FPI's Systems Furniture Production in FY 1995
Supported 475 Civilian Jobs**

FPI's FY 1995 systems furniture sales of \$70.5 million provided a number of FPI or directly-related civilian jobs as shown below:

	<u>Employees*</u>
Federal Prison Industries	
Central Office Systems Furniture Group Staff	14
Central Office Sales, Financial, Management, Procurement and Support Staff	21
Staff at 5 FPI Factories	80
Private Industry Contractor	
Factory Employees at 6 Manufacturing Sites, and Corporate and Satellite Office Staff	<u>360</u>
Total	475

(*These figures do not include trucking employees, space planning services, installation services, employees of raw material suppliers, nor any jobs associated with the "turnover" of capital in the economy.)

Thus, if FPI ceased producing systems furniture altogether, 475 directly related civilian jobs would be lost. Conventional wisdom would lead one to believe that these former Federal sales, when redirected to the private sector, would create even more jobs there. That simply is not the case, though.

• **The Private Sector Would Create Fewer Jobs
Than Currently Exist to Support FPI's
Production**

One way to determine the number of new jobs which would be created if FPI's Fiscal Year 1995 sales of \$70.5 million were transferred to the private sector would be to divide these sales by the industry's per capita production figure of \$171,789. The result is 410 jobs, or 65 less jobs than FPI supported with the same level of sales.

This approach, however, still grossly overstates the number of new jobs which would be created if FPI stopped producing systems furniture. The reason is the principle of marginal costs (or, in the alternate, marginal profits). This is not so much a sophisticated business principle as it is common sense. Which passenger is the most profitable for an airline? Which guest costs the hotel the least to accommodate? Which part of a manufacturing company's production is the most profitable? The

answer to all questions is: the last. This is just as true for private sector furniture manufacturers.

Recent reports in furniture industry publications indicate that private sector systems furniture manufacturers were operating at an average of 74% of their capacity in FY 94. If this is so, then additional production could be accomplished without significant costs for plant expansion, equipment purchases, or even very many additional employees. This would be particularly true for large furniture manufacturers, several of which dominate the systems furniture industry. To better gauge the issue of marginal costs -- which has a strong relationship to additional job creation -- requires examining how FPI's current sales in systems furniture would likely be distributed to the private sector.

• Most of the Diverted Sales Would Go to a Few Big Companies

It seems sensible to presume that the \$70.5 million in re-directed FPI sales would end up being distributed among the private sector companies in approximately the same ratio as the current non-FPI Government purchases of systems furniture. The latest procurement data available from the Government on sales to Federal agencies is for FY 1994. The data indicates that, of the non-FPI furniture sales to the Federal Government, 56% came from 4 companies. The remaining 44% was distributed among 52 other companies, 17 of whom are dealers and sell furniture manufactured by other companies. (Of these 52 companies, 4 sold 4-5% each of the sales; 1 sold 3-4% each; 2 sold 2-3% each; 5 sold 1-2 % each; 9 sold 0.5-1% each; 6 had 0.25-0.5% each; and 25 sold less than 0.25% each.)

If FPI's sales of \$70.5 million were distributed to the private sector, the four biggest companies would obviously receive the majority. The estimated amount of additional sales each would receive and the relationship to their other sales is reflected in the chart below. (Sales dollars are in millions.)

Company

	Hayworth	H. Miller	Knoll	Steelcase
Total Sales (1994)	\$ 1,000	\$ 953	\$ 510	\$ 2,400
Percent of sales to Federal Govt. (1994)	2.3%	3.5%	5.9%	0.7%
Percent of non-FPI Federal market share in systems furniture	13%	18%	16%	9%
Potential additional sales out of FPI's \$70.5 million	\$ 9.1	\$ 12.6	\$ 11.2	\$ 6.3
Resultant increase in company's total sales	0.9%	1.3%	2.2%	0.3%

As indicated earlier, it is difficult to precisely determine how many jobs might be added in order to absorb increased sales if FPI were not in the systems furniture market. That number would vary from company to company, depending mostly on current utilization of capacity, marginal costs to absorb the added sales, etc. Using the earlier example, if the airline, hotel or manufacturer had under-utilized capacity (empty seats, vacant rooms, or under-utilized equipment), how many additional people would they hire to absorb the additional business? Probably none, maybe a few. In any case, the number would clearly be minuscule.

By way of comparison, if FPI were contemplating an increase in production in a particular product line of 2% or less, it is highly unlikely that consideration would be given to opening a new factory, buying more equipment, or hiring additional staff. Rather the strategy would be to maximize the capacity of the existing factories and maybe work a few additional temporary shifts or hours of overtime. This is virtually the identical strategy the private sector would employ.

**A Real Situation With a Respected Company
Illustrates the Veracity of this Proposition**

According to a recent newspaper account, Herman Miller Inc. was awarded a \$125 million systems furniture contract with the Social Security Administration, to be delivered over 4 years. The article quoted company officials that this was the biggest order in the company's history and was 10 times the size of any other Government contract the company had received. Since the value of this one order over 4 years is far more than the growth FPI requested over 5 years, one might expect that many additional jobs would result.

Using the furniture industry methodology applied to FPI, one could estimate the number of additional factory jobs Herman Miller would create by dividing the average annual sales of \$31.25 million by the per capita production of \$171,789. This results in an estimate of 182 new factory jobs. In fact, though, due to the effect of marginal cost principles, it is very unlikely that the actual number of factory staff hired will begin to approach this number.

Herman Miller is a highly respected company with an excellent reputation for quality, efficiency and cost control. This well deserved reputation was not attained by accident. They know how to control personnel costs and how to maximize the benefits from the marginal cost principle. In fact, when interviewed, the company Chairman said he was not sure whether they would add any employees in order to fulfill the Social Security Administration project.

**Small Companies in the Systems Furniture
Industry are Often More Concerned About
Competition From Big Companies than FPI's
Presence.**

To be sure, there are numerous small companies in this industry. FPI staff's private conversations with some of them, however, reveal that they are much more concerned about the effect competition from the big companies is having on their survival than the presence of FPI. They indicated, in fact, that since FPI concentrates its systems sales efforts on larger projects, if FPI were to discontinue systems furniture production, the share of those sales would likely be distributed to the larger companies at an even more disproportionate rate than currently is the case.

CONCLUSION

The intent of this paper is to address a variety of widely held but unsupported misconceptions about Federal Prison Industries and its effect on the private sector. Although some will no doubt dispute certain parts of the document, FPI believes that a compelling case can be, and has been, made that FPI has a positive effect on the private sector economy and that assertions to the contrary rely on flawed logic, faulty methodology, flagrant misrepresentations, and an inflammatory and disingenuous appeal to the general public's misconceptions and emotions.

Statement
of
Steve Schwalb, Chief Operating Officer
Federal Prison Industries
Before the
House Committee on Small Business

June 27, 1996

**Testimony of Steve Schwalb
Chief Operating Officer, Federal Prison Industries**

Madam Chair and members of the Committee, I appreciate the opportunity to appear before you and discuss Federal Prison Industries, Inc. (FPI) and the legislative proposal, H.R. _____. For the record, I want to note that the views I am expressing today are those of the Department of Justice, and not necessarily those of the Administration. The Administration's position on this legislation is currently under review. In my testimony I will review briefly the role that FPI plays in the Bureau of Prisons; the challenges that the astonishing growth in the prison population poses to the BOP and specifically to FPI; how we are striving to meet these challenges while remaining sensitive to the concerns of the private sector; and how the proposed legislation would reduce vitally needed prison employment, jeopardize the safety of prisons, including prison employees and have a potentially negative impact upon small businesses. But first I would like to say a few words about FPI's relationship with the small business community.

FPI's Continuing Commitment to Small Business

Through a sustained commitment to increasing communication, FPI is developing a positive and supportive relationship with the small business community. FPI has an outstanding record of purchasing from small businesses, and is a major customer of

businesses in the communities where FPI factories are located. FPI has been active in attracting small business to supply FPI's needs for raw materials and services. In 1995 alone, FPI awarded \$159,471,810 which is 56.6% of its total procurement dollars, to small business concerns. For two years in a row, FPI has been recognized for having the highest small business utilization rate of any component in the Department of Justice.

Each year, 60 - 70 percent of FPI's sales dollars are spent on raw materials and services from the private sector. These purchases, along with FPI staff salaries, and expenses for utilities and equipment create private sector jobs, many of them with small businesses that are dependent on FPI for their livelihood.

With the encouragement of its Board of Directors, FPI has been working cooperatively with the private sector, particularly small business, to develop partnerships that can be mutually beneficial and meet the inmate employment demands. I would note that FPI's Board Chairman, Mr. Joseph Aragon, is himself the founder and CEO of a small business and was recently selected by the Small Business Administration as the 1996 Small Business Person of the Year for the State of Colorado.

In addition to the more traditional supply arrangements for raw materials, FPI has been exploring different forms of

subcontracting and joint ventures with private companies. We have also expressed an interest in meeting with the Small Business Administration to discuss the possibility for FPI to partner with small businesses who would like to contract with the Federal government but need certain equipment or expertise which FPI possesses.

Overall, FPI has worked diligently to develop a positive relationship with many small businesses across the country and our efforts in that regard continue. Let me now provide some background on FPI and its relationship to the Bureau of Prisons.

**Federal Prison Industries and Its Relationship
to the Bureau of Prisons**

Federal Prison Industries (FPI) is a wholly-owned Government corporation, organizationally within the Bureau of Prisons, whose mission is to employ Federal prisoners by manufacturing products and providing services exclusively for other Federal agencies. FPI provides work programs to approximately 17,000 inmates in 100 factories. The corporation employs over 1600 staff and provides over 150 different products and services across such product families as furniture, textiles, electronics, metals, and graphics. It should be emphasized that FPI is able to accomplish this without any taxpayer dollars going for its operations. Instead, FPI's operations are funded solely through the sale of products and services to the federal government. This is

particularly significant in these times of fiscal and budgetary constraints.

Since FPI is an essential program of the Federal Bureau of Prisons (BOP), I want to cite the mission statement of the BOP itself: to protect society by confining offenders in the controlled environments of prisons and community-based facilities that are safe, humane, and appropriately secure, and which provide work and other self-improvement opportunities to assist offenders in becoming law-abiding citizens.

In carrying out its mission, the BOP considers FPI to be its most important correctional program. FPI employs, in a production environment, an average of 25% of the sentenced inmate population. All able-bodied sentenced inmates are required to work. Those not in FPI are utilized to operate and maintain the prison. FPI's work program reduces idleness, instills a work ethic, and provides skills training. Not only is FPI the primary vehicle for meeting the Bureau's statutory mandate to employ and train inmates; but by reducing inmate idleness and boredom, it is essential to the security of Federal correctional institutions and the communities in which they are located and to the safety of the inmates and the correctional staff who work at those facilities.

Today (June 1996) the total BOP inmate population stands at over

100,000. By the year 2000, it is expected to exceed 125,000. As the Bureau's population grows, FPI will need to create an additional 4,000 to 5,000 inmate jobs by the year 2000 to maintain a safe environment. Insofar as possible, employment needs will be met by both expansion in our current lines of products and services and diversification into new areas.

FPI has made considerable efforts to minimize any adverse impact on the private sector. Over the past few years, it has transferred factories from multiple factory locations to newly-activated prisons, thereby creating necessary inmate jobs without increasing FPI's sales. In an effort to continually diversify, FPI has also established a mattress recycling factory; a computer repair factory; two forklift repair factories; a laundry; two furniture parts factories in order to create inmate jobs without increasing finished goods furniture sales; a digitizing and data services factory; and a mail bag repair factory. The next three factories FPI activates will be a diesel engine repair facility, a laser toner remanufacturing factory, and a clothing factory which will produce the work clothing worn by Bureau of Prisons staff.

Inmates earn modest wages through the prison industries work programs. One-half of these wages must be used to meet the financial obligations of inmates, including court-ordered fines, restitution, and other monetary judgments. In addition,

extensive research has demonstrated that inmates who have worked in FPI are significantly more likely to maintain good conduct while incarcerated, find and retain employment upon release, earn higher wages and to avoid future involvement in crime. Thus, we are proud that FPI benefits society in a number of important ways.

Mandatory Source Status: Critical to Continued Success

To many, Federal Prison Industries, by name, sounds like a typical business. It is not, and it distorts FPI's true nature to consider it in that way. FPI is, by statute, a Government program that must be run in a self-sufficient manner. But its mission as a correctional program takes priority over its nature as a business enterprise.

The great majority of FPI's statutory mandates embody public policy obligations rather than traditional business principles. These obligations are inconsistent with the considerations that guide virtually all for-profit, private sector businesses. Private sector businesses seek to reduce, rather than maximize, work force levels. FPI seeks to maximize inmate work opportunities. Virtually all private businesses focus on a limited product line, whereas FPI is involved in a large number of products and services in the interest of minimizing its impact on any one industry. Private businesses seek to streamline

manufacturing processes. By contrast FPI provides work programs for a growing inmate population within a security infrastructure that is necessary, but which unavoidably restricts productivity. In order to overcome the constraints inherent in meeting FPI's statutory mandates as a correctional program, Congress provided FPI with its designation as a mandatory source of procurement for Federal agencies. FPI's mandatory source status requires that Federal agencies contact FPI before contacting other sources, to determine whether FPI can meet their price, quality, and delivery requirements. If FPI offers the product at the current market price and can meet the customer's specifications, including quality and delivery requirements, the customer is required to purchase the item from FPI. Thus, the mandatory source provision is a mechanism that creates sales opportunities for FPI. This enables FPI to generate the level of orders critical to a continuous, steady work flow to its prison factories without engaging in massive sales and marketing activities.

If FPI cannot meet the current market price or the customer's requirements, FPI provides the customer with a waiver to purchase the item from a private sector vendor. Waivers are liberally granted. In 1995, FPI granted 80 - 90 percent of the waivers requested.

The "Federal Prison Industries Competition in Contracting
Corrections Act of 1996"

The proposed legislation would render FPI unable to fulfill its statutory mandates and thus would deprive the Bureau of Prisons of its single most important tool for ensuring order and safety within the Bureau's overcrowded prisons. Current law (18 U.S.C. 4124) provides that Government departments and agencies are to purchase from FPI, provided that FPI can meet the current market price and the customer's quality and delivery standards. This bill eliminates the mandatory preference under which FPI has operated since its inception in 1934 and would require that FPI do business on a competitive basis with private sector companies.

As I mentioned previously, FPI is principally a correctional program; and, as such, it has many inherent conflicting mandates and constraints that cannot be eliminated. The only way that FPI could be fully competitive is by eliminating these constraints, which would defeat its nature as a correctional program and be contrary to the reasons for FPI's original creation.

In addition, FPI does not have the capability to independently produce sophisticated products, such as systems furniture. It relies on the private sector to provide space planning, design, engineering, installation and customer service. By entering into partnerships with private companies, through the use of federal acquisition procedures, FPI vertically integrates the

manufacturing of a company's product using inmate labor. In order to attract a private sector partner, there must be some incentive. That incentive is the mandatory source. Without the mandatory source, FPI would be unable to attract the private sector partners necessary for it to diversify its product offerings and to offer products which are contemporary and attractive to its federal customers.

FPI's mandatory source status is a critical element to its effective functioning as a correctional program. Without this procurement preference, FPI would be unable to perform its mission. By eliminating FPI's mandatory source status, the Federal Prison Industries Competition in Contracting Corrections Act of 1996 would dramatically reduce the number of inmates FPI would be able to employ. The inmate idleness this would create would seriously undermine the safety and security of the nation's Federal prisons. The only alternative would be the funding of additional programs, which would require an increase in the Bureau of Prisons' appropriations.

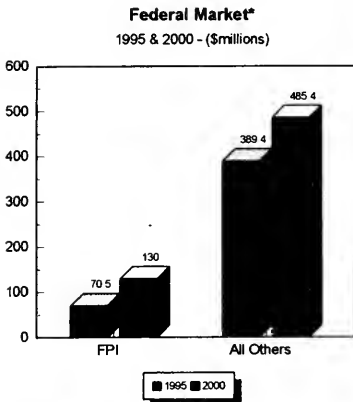
Conclusion

In conclusion, I would like to reinforce FPI's continuing commitment to developing positive, cooperative relationships with small business concerns. Doing so provides opportunities for the private sector and contributes to FPI's primary mission to provide work programs for inmates.

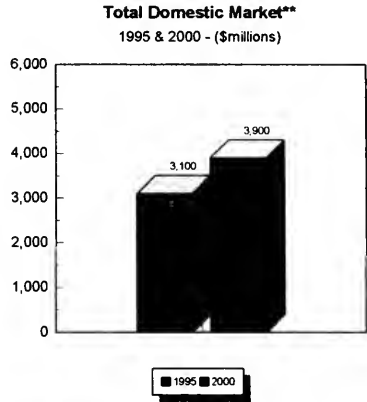
Retaining the mandatory source provision allows FPI to ensure a stable flow of production, which is required to maintain safety and security, reduce inmate idleness at penal institutions and provide skills and training that have proven to increase an inmate's successful return to the community. The mandatory source provision also enables FPI to continuously seek out and encourage beneficial relationships with the private sector business community.

Thank you for the opportunity to appear before you today. I would be happy to answer any questions Members of the Committee might have.

FPI'S IMPACT ON PRIVATE SECTOR SALES (SYSTEMS FURNITURE)



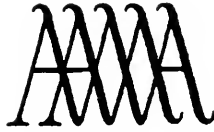
*Sources
Federal Prison Industries Board of Directors Decision - Systems Furniture
FPI Competitive Impact Study - Systems & ADP Furniture



**Sources
FPI Competitive Impact Study - Systems & ADP Furniture

These charts indicate that an increase in market share does not necessarily result in a decrease in the availability of sales opportunities in the private sector.

FPI has been given approval by its Board of Directors to increase its sales of Systems and ADP furniture production by \$59.5 million between 1995 and 2000. Although FPI's Federal market share will increase, the Federal market remaining for private companies is also projected to grow by a total of \$96 million during this same time. The loss of private sector jobs is unlikely when Federal sales are projected to increase. In addition, private sector companies have the entire domestic market available to them. FPI is excluded from this market.



Testimony of
Rick Francis
Tennessee Apparel Corp.
on behalf of the
American Apparel Manufacturers Association
before the
House Small Business Committee

June 27, 1996

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Thank you. My name is Rick Francis of Tennessee and I am the Vice President of Administration for Tennessee Apparel Corp. located in Tullahoma, Tennessee. Tennessee Apparel Corp. is a small business located in southeastern Tennessee and we employ approximately 430 people in a cut and sew operation. We have been in business since 1901 and have been manufacturing military uniforms for the past thirty nine years. Our military products include men's dress trousers, women's slacks, and extreme cold weather (ECWCS) parkas and trousers. During these past thirty nine years, we have produced over 42 million dress trousers, over 800,000 ECWCS trousers, and 600,000 ECWCS parkas. Our company is recognized as one of the leading suppliers of military clothing with approximately 95% of our sales to the Defense Personnel Support Center (DPSC) in Philadelphia, the US Army Soldier System Command in Natick, MA, and the Army Air Force Exchange Service (AAFES). Certainly the record of our company in Government sales qualifies us as an interested party in this hearing.

I am appearing here today on behalf of the American Apparel Manufacturers Association.

We appreciate the opportunity to be heard and to express our concerns about the continuing incursion into the government contracting apparel market.

The AAMA and its members recognize the important task FPI faces to create meaningful jobs for the prison population. But we feel strongly that the need to put prisoners to work is not worth jeopardizing the "go to" war mobilization capacity of the United States. It has been stated many times by officials that it is imperative that the United States have a warm industrial base to be able to meet future mobilization efforts. Your recognition of this need and protection of it is of utmost importance to the security of our country.

I'd like to provide you with some background on the AAMA, the apparel industry in general, and the Government Contracts Committee.

The AAMA is the national trade association for the domestic apparel industry. Our members produce about two-thirds of the garments manufactured in the United States and are located in virtually every state. The apparel industry employs some 895,000 men and women.

Our Government Contracts Committee is composed of 76 manufacturing and supplier companies. The majority of the garments contracted for by the Defense Personnel Support Center (DPSC), a part of the Defense Logistics Agency (DLA), are manufactured by our members. The majority of the members of the Government Contracts Committee are small businesses. This is not unusual in our industry -- approximately one-half of AAMA members are companies with fewer than 500 employees. The preponderance of small businesses is even larger among companies that do not belong to the AAMA.

The reason we are here today is to discuss with you the advisability of FPI's continued expansion into military clothing

production. As an example, we are particularly concerned that because of a decision made by the FPI Board of Directors in December 1995, by the year 2000 FPI will be manufacturing nearly 40% of the work clothing and 25% of the protective clothing for our soldiers in the field. Work clothing is loosely defined and includes many items from work shirts to battle dress uniforms. Protective clothing includes items from impermeable aprons, explosives handlers coveralls to extreme cold weather trousers.

FPI began manufacturing work clothing in 1986 with \$2.6 million in sales. By 1994 they had \$10.8 million in sales, which is a 315% (or four fold) increase in seven years. By the year 2000 they expect sales of \$42 million which would be another four fold increase. So from 1986 until 2000 FPI will have experienced an annual increase of 24% in the work clothing market as stated today.

This works out to 40% of the federal market of work clothing by 2000. When your sales increase at this rate, and I'd like to note that FPI calls this a gradual increase, someone has to pay. And in

this case it is and will be the American companies and hardworking, tax paying workers they employ whose production will be taken away so that prisoners can work. We at Tennessee Apparel would love to be able to say that we have averaged an annual increase in production of 24%. I don't know any companies, particularly small businesses, with the exception perhaps of computer related companies, that can make that statement.

In FY 1993 FPI's sales of protective clothing were \$352,000 and in FY 1994 were \$371,000. At the end of FY 1995 sales were projected to be \$18 million we do not have a final figure for the sales. In the next five years FPI plans to increase its production of protective clothing to \$60 million. So from 1993 until the year 2000, FPI will have increased its production of protective clothing 170 times its 1993 figures.

It is very important to point out that FPI states their sales in dollars, not units. So, by the year 2000, FPI's goal is \$60 million in

protective clothing – what if there is only \$80 million dollars worth of business? How many American workers will be affected? Is someone really going to say – hold on FPI, you're only supposed to have 25% of the market not \$60 million worth?

Madam Chairman, I would like to state that we support FPI's efforts to employ prisoners. But we would make the case that with FPI's significant and continuing expansion of production the "go to" war mobilization capacity of the United States is being jeopardized and jobs are being stolen from women supporting families. We are gravely concerned and it should be noted that DPSC has stated that UNICOR has not had the flexibility to meet surge demands. This is FPI's customer speaking. DPSC also stated that "the private sector is much better at surging production when called upon, but in order for it to be effective, there has to be actual production occurring from which to expand." Remember, government agencies are not given a choice when FPI wants to take a product. If FPI wants it, they get it.

At this point I'd like to say that this past December there were uprisings in four federal prisons. These uprisings caused a four month lock-down during which no delivery of product was made. If there had been a national emergency, where would the product have come from.

Quite frankly, we feel no one entity should be a sole source - not a private company - not Federal Prison Industries. During a national emergency our country needs production capacity. The only way to have it is to have multiple companies producing in peacetime so that the necessary production capacity is available to expand and expand quickly.

Further, the trend for the business is that the industry will be the point of stockage (inventory) - not DLA warehouses - so when one organization has it all - DOD must assure itself that not only can this organization make the item, expand production as needed and they must have the capacity to store it. This is not an insignificant task.

Ladies and Gentlemen, may I review some statistics with you on the apparel industry which show just who will be affected when apparel plants are closed as a result of prisoners being employed and taking more work from an already besieged industry.

Today (May 1996), the production work force in the apparel industry is 703,000 employees, of which 92 percent, 644,000, were women. Of the 644,000 women employed in the apparel industry, 15% or 97,000 are single parent heads of households.

To narrow these statistics more, and to show you a figure that is very striking, of the 703,000 production workers in the apparel industry, 440,000 are sewing machine operators, of which 400,000 are female and 43.9% or 176,000 of the females are either African American or Hispanic.

The apparel industry as a whole has lost 100,000 jobs since 1994.

We estimate the number of private sector production employees serving DPSC procurements is approximately 15,000. If

The private sector manufacturing base now serving DPSC stands to lose at least 4,500 of those 15,000 jobs if the increases in production approved in December are allowed to remain in place. That's 4,500 tax paying Americans out of work. The majority of these plants are small businesses and are located in small towns and are vital to the security of these towns.

In essence, the majority of people whose jobs are at risk are female and likely to be African American or Hispanic and likely to be the sole source of income for their families.

Most of our Government Contracts Committee members have devoted their businesses to supplying the Department of Defense. In addition to the actual manufacturing of products, these companies have spent an enormous amount of time and money to develop and/or assist in the development of new garments for the soldiers or in systems to improve their production, quality and efficiency. These companies continually strive to contain costs in order to be competitive. These efforts were undertaken in good faith

as business partners. Now for some companies the very items they have developed at their own expense are being taken out of the competitive bid process and GIVEN to FPI and often at higher prices than the government pays private industry. All awards are made to firms based on the best value to the government and are at firm fixed prices.

In closing, all we as apparel manufacturers are asking is that FPI's mandatory source requirement be removed and that they remain at 1994 manufacturing levels. If the approved increases go into effect, companies will be devastated by the loss of production. Also, to lessen the impact of FPI's involvement in government contracting, the prison system could subcontract some of the work it has to the current private sector suppliers. Our company has been successful in supplying cut parts to one prison facility. The cutting operation presents some problems to the prison facility. It requires a large capital investment in equipment and space, the labor generated does not employ that many inmates, and the use of

cutting blades presents a security problems for the guards as well as the other inmates. By working with the current private sector, both parties could benefit.

We would also request that a GAO Report be done on FPI's operations. What is it costing American citizens to employ prisoners? What happens when federal prisons are locked down. No one has ever been willing to answer this question for us.

I'd be glad to answer any questions you have. If I don't have the answer for you now, we will provide it in writing to the Committee.



SHARON KRELL
MANAGER
ACCESS PRODUCTS
COLORADO SPRINGS, COLORADO

Madame Chair, Members of the Committee, thank you for the opportunity to speak at this Hearing. I was invited as a result of a letter I wrote to Congresswoman Meyer regarding the impact of Prison Industries on my industry, which is the remanufacture of toner cartridges for laser printers.

My name is Sharon Krell. My company is Access Products, a small business in Colorado Springs, Colorado. We employ 20 individuals.

Access Products has been one of several suppliers of remanufactured toner cartridges to the United States Air Force Academy. They were satisfied with our product and our service, which is extensive. When Prison Industries contacted the Academy regarding purchasing their cartridges, the Academy chose to deal with them solely. This decision was based on Federal Acquisition Regulations mandating purchase from Prison Industries.

In an effort to continue our business with the Academy, we proposed a program which would combine cartridge purchase with printer maintenance. We estimated this program could save the Academy at least \$50,000 per year. We were asked to submit a formal proposal for this program, which we did. This proposal was accepted then canceled by Contracting.

We then requested and were granted a meeting with Academy procurement officials. We were told that our proposal was unacceptable because procurement regulations require them to purchase from GSA and Prison Industries; that we were the only vendor providing this program to their knowledge and accepting it would be unfair to other suppliers; that our proposal combined a supply and a maintenance item which were not administered by the same office; and that because of the time and effort required to administer a bid process, it is easier to deal with Prison Industries.

We then asked that the Academy bid out 50% of their cartridge needs to small business, as they are allowed to do based on a commitment given our industry by Prison Industries. We were told that the Academy was acting in accordance with Federal Acquisition Regulations. When Prison Industries cannot provide a specific cartridge or meet their demand, the Academy will place an order via their automated bid system with an outside vendor. They saw no need to make any further efforts.

In 1994, we averaged \$3700 a month in sales to the Academy. This supported the employment of one production individual. Through 1995 and January 1996, we averaged \$1600 a month. Since January, we have had no sales to the Academy. Fortunately, we were able to replace those lost sales and save one job.

Based upon our prior experience at the Academy, we feel that competitive bidding for cartridges would save the Academy at least \$25,000 annually. However, price differences are not considered in determining whether Prison Industries should be used for procurement purchases, unless the buying agency determines that such differences warrant seeking a waiver.

I have pursued doing business with the government via EDI. The Department of Defense has hired consultants to tour the country with the aim of contacting small businesses to assist us in the use of EDI for our benefit. In reviewing an EDI database, I found several requests for remanufactured toner cartridges, one from a local air force base. We contacted the buyer and found that he was told by Prison Industries to pull this bid from EDI as it was a required purchase from Prison Industries. If the Department of Defense wants to do business with companies such as mine, why then is Prison Industries monitoring EDI bids and contacting agencies to tell them these items cannot be posted.

We now review EDI daily for bidding opportunities. We see many more requests for OEM cartridges than remanufactured cartridges. Why are agencies seeking to spend more money than is necessary for toner cartridges? An obvious answer is that they are dissatisfied with the quality of the Prison Industries cartridges, or they are unaware of or unwilling to engage in the waiver process. Our industry is losing this business, and I will remind you that HP and Canon cartridges are not made in America.

My industry has been told that Prison Industries seeks only 26% of the federal market for remanufactured toner cartridges; that once this level is reached all work beyond this level will be waived; that Prison Industries will automatically waive up to 50% of an agency's requirement upon request; and finally, that an agency has the right to request a full waiver in cases where it believes Prison Industries cannot meet its requirements.

To my knowledge, none of this information is formally documented or provided to anyone who has a need to know. Is there any involvement with the Office of Federal Procurement Policy, or the SBA, to control the reach of Prison Industries as it affects small business. Should Prison Industries go after business currently held by a small company, which that company may need in order to survive financially and when that company can provide the same product at a better price? Is it ethical for an agency to be able to pull a contract from a small business before the term is up simply because Prison Industries has contacted them.

Prisoner rehabilitation is a necessary and worthwhile objective, but the need for it must be balanced against the need for small companies to be able to compete for federal business. Do we not need this base of small business in order to employ these trained prisoners upon release?

There should be room within the federal marketplace for Prison Industries and small business to co-exist. Most of us are unable financially to develop extensive marketing materials and websites, or hold our own trade shows to market our product to government buyers. Prison Industries is a large business with a mandated customer base. Why are they so reluctant to open up this market for competitive bidding?

I hope that this issue is addressed fairly, as it affects thousands of small businesses who currently cannot compete against Prison Industries. The millions of jobs created over the last four years have not been in large companies; they have been created in businesses such as mine. The current administration has been very active in opening up trade opportunities overseas for American business. Why isn't attention being given to small businesses in this country who are not permitted to compete within their own federal marketplace.

As a small business owner, I want the right to compete, on a level playing field, with Prison Industries. My industry of small businesses welcomes competition, and we do not want to be excluded from it.

Madame Chair, I have materials here that I would like to make part of the record which are pertinent to this topic.

Thank you.



SOLUTIONS 4U, Inc

tm

P.O. Box 3416 Montgomery, AL 36109
Phone (205) 244-0708 Fax 244-0412

June 25, 1996

To: Sharon Krell

Re: UNICOR impact on my business

Dear Sharon,

My experience with UNICOR has been through Accounting & Finance on Maxwell Air Force Base & Gunter Annex.

I have remanufactured cartridges since starting my woman owned business in January, 1992, on MAFB & Gunter. Starting in February of this year, clients were turning in Form 9's as usual listing my company as the sole source. When it was received in Accounting & Finance, they were phoned & told that they had to use UNICOR cartridges 100%. They have been unhappy about this as the price & quality are not as good. Only one cartridge does UNICOR charge less than I do. Some up to \$25.00 more per cartridge.

All our cartridges are guaranteed 100%. When I asked what kind of guarantee that UNICOR gave them, I was told if they didn't work it was easier to throw the cartridge away than fill out the paper work to have it replaced even by base supply.

Another remanufacture here in Montgomery, could not receive any help to be put on the vendor list. They finally received help from Senator Heflin in securing an appointment to talk about why all the trouble. The Colonel in charge of Procurement told them that it was mandated that they buy the cartridges from UNICOR first, then there was a trickle down effect through GSA etc. The Colonel had their name put on the vendor list but they have never received a call. That has been 2 plus years ago.

Sincerely,

Carol Kelsey
Solutions 4U, Inc
Montgomery, AL



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We join Sharon Krell of Access Products, Inc., in an expression of concern regarding the involvement of Federal Prison Industries (trade name UNICOR) in a mandatory supply preference to provide remanufactured cartridges to Federal Agencies.

Ms. Krell has provided us with copies of letters from the U.S. Department of Justice which clearly define the procedures and policies regarding this involvement. However, it has been our field experience with Federal Agencies that there is a considerable gap between the reality of those conditions and the impression that is being given to individual contracting or purchasing agents. Specifically, I would interpret those two particular communications to indicate that FPI has goals established for achieving a maximum of 26% of the Federal business by 1998, and that all additional business would be waived, and also that any agency may automatically request a waiver of 50% of their business without specific justification, 100% with justification.

I have been unable personally to determine how this is intended to interact with mandates for small business set-aside.

In *direct contrast* to this, we are being told by agencies that the purchase of this product is mandated, PERIOD, and they are not allowed to order from us, even though we are geographically nearer, and offer local on-site inspection and problem resolution, cartridge pickup and delivery, and they are currently unable to even get delivery from UNICOR.

In attempting to piece this together, it seems clear that there is a misconception in place, possibly the result of information which was inadequately furnished in conjunction with sales attempts. Reading between the lines of Mr. Schwab's letter of November 10, 1994, perhaps that misunderstood communication was generated by misdirected or over zealous employees of private sector partner, Cartridge Technology Network, rather than UNICOR.

In any case, the facts are these:

Many, if not most, government agencies believe recycled cartridges must be purchased from UNICOR exclusively, by mandate.

Many small recyclers and dealers are being adversely affected.

The recycling needs of *many* agencies are not being satisfactorily met.



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I do not believe that our industry objects to the allocation of a reasonable portion of this business to the Federal Prisons Industries program. I agree with Mr. Schwalb that there are clear benefits to be derived by working together and that the solution outlined in his letter of November 10, 1994 should have allowed both the industry and FPI to pursue our respective business goals. In fact, it seems that correct implementation of the original mandate would have resulted in a *WIN, WIN* situation for all concerned. Unfortunately, this was not the case, much to the detriment and grief of a number of small businesses.

We see scenarios like this:

An agency which was not previously recycling cartridges is educated and committed to the program through the efforts of the private sector. A contract or agreement is in place, and there is reliance on both sides. The agency is informed that there is a mandate in place which forces acquisition from UNICOR, no mention of percentages or waivers, no consideration of existing agreements. The relationship is summarily terminated. The small recycler is left with stock and / or component parts on hand, excess personnel, diminished volume, etc. In many cases the agency begins paying a higher price for less satisfactory service and / or quality. The agency struggles along, happy or unhappy, *OR the agency switches back to new.*

Mr. Schwalb made another excellent point in his letter:

"In general, I believe that production in tandem with a private company has put to rest industry concern regarding quality, in that the partnership has enabled FPI to produce a product that is not inferior to the industry's product, but actually enhances its reputation and its ability to compete against new cartridges."

Sadly, many of us no longer agree. Many agencies do not agree.

Sadder still is the end result:

*We have all lost ground in achieving the goal of recycling,
AND it's positive impact on budgetary and environmental concerns.*

No one is winning now !



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SERVICE ON SUPPLIES

Perhaps the quality and pricing produced and offered by FPI and CTN is not inferior to the references made in Mr. Schwalb's 1994 letter, but has simply not kept pace with improvement achieved by the knowledge available and the on-going competitive process in the private sector. Theoretically, partnership with a viable industry entity should provide FPI with access to industry state-of-the-art status, but coupled with the perceived mandated volume, does it? Can it? Again: Who is winning now?

In our opinion, it would be very beneficial if an official communication were provided to vendors, very briefly clarifying the terms and conditions of the mandatory supply preference. Surely that would aid small recycling companies in the sales efforts required to effect an appropriate allocation of purchases of these products, to the benefit of all concerned.

It is our understanding that an attempt is being made to introduce legislation to further limit the percentage of business in any category which could be mandated to the Federal Prison Industries program, and to provide for a better monitoring system.

A very clear goal for FPI is stated:
FAR 8.601

(c) FPI diversifies its products and services to prevent private industry from experiencing unfair competition from prison workshops or activities.

In light of the negative impact which has occurred and our perception of intent, we are in support of revision, as well as clarification.

We are a small, woman owned business, under contract to the Federal government under Group 36 since 1982.
We have been seriously impacted.

We join other members of my industry in thanking you for consideration of this matter.

Respectfully,

Blende Sanders

P.O. Box G • Corvallis, Oregon 97339

(503) 929-2463

FLINT LASER SERVICE

SERVICING BOTH THE LASER PRINTER
AND THE LASER CARTRIDGE

21 June 1996

Sharon Krell
Access Products, Inc.
4160 Center Park Drive
Colorado Springs, CO 80916
(W)719-591-9660
(F)719-573-0899

Dear Sharon,

This letter is just a brief informational letter about my experience with the FBI in Michigan that you can use at the Congressional hearings.

In the spring of 1991, I contacted a Pauline Braun of the FBI Field office in Detroit, MI. Pauline Braun finally agreed to try some of my toner cartridges. Previously to this time the FBI had tried a national contract with someone else and it was not successful. The FBI National Headquarters told their field offices to do what they felt was best for them.

Pauline Braun tried my cartridges and liked my work. I then provided the cartridges for all of the offices in Michigan. Then in 1992 Pauline Braun received a promotion and Elaine Zanni took over her duties.

Everything ran smoothly until January of 1994. UNICOR entered the picture. The FBI put out a bid for doing their toner cartridges. A few companies responded. I do not know who or how many. UNICOR was one of the organizations that responded. I just put in a bid for the Michigan offices only. The contract could be broken down into individual states. Elaine Zanni tried to keep me on as the provider for the offices in Michigan. Some bureaucrat in Washington, D.C. decided that they would use UNICOR only.

Elaine Zanni continued to use my services until about April/May of 1994. Elaine was informed by the National Headquarters that UNICOR was the only company(?) that the FBI would deal with. All other bids were rendered null and void. UNICOR's bid was \$47.00 on the SX series cartridges. My bid and other bidders prices were lower than UNICOR's.

I had to write a letter to the Honorable Donald Reigle (who retired in 1994) to help me to get the money owed me for the cartridges that I had done for the FBI in 1994. The national offices were not

7304 114TH ST FLUSHING, MI 48433
810-639-6367

going to pay me for more than \$2400.00 dollars worth of work that I had done from January through May of 1994. Citing that the work provided was not approved by the FBI National Headquarters. I had the person's name at one time, but I threw it away in disgust.

Elaine Zanni has had to call me on at least 4 occasions to bring her some cartridges because UNICOR:

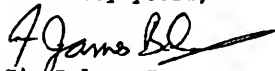
1. Was not able to fill the demand of the various agencies that were using UNICOR cartridges.
2. The cartridges were not a good quality. They leaked toner all over. They streaked real bad. Poor print quality. And there were various other problems. I cannot list them all.

As far as I am concerned the actions of UNICOR are not fair and just. If a company in the private sector was to do some of the stunts that UNICOR has pulled I am quite positive that there would be an investigation to see if any anti-trust laws were violated.

I am also sending a copy of this letter to my congressman, Rep. Jim Barcia (D) 5th District, MI., I have written him about the actions of UNICOR. His response was that he would be very interested in "a law, or a administrative agency decision which allowed UNICOR to disallow competitive bids."

If I can be of further assistance please let me know.

Sincerely yours,



Jim Balcer III

Owner

Flint Laser Service



U.S. Department of Justice

UNICOR

Federal Prison Industries, Inc.

Washington, DC 20534

November 10, 1994

Mark Stein
Executive President
Professional Cartridge
Remanufacturers Institute
2711 Pittman Drive
Silver Spring, MD 20910

Dear Mr. Stein:

For more than three years but especially over the past several months, Federal Prison Industries (FPI) and the International Cartridge Recycling Association (ICRA) have exchanged correspondence and met on a number of occasions for discussions concerning production by FPI of re-manufactured laser cartridges. Recently we have held several meetings with ICRA and small cartridge recycling companies, the last one on October 26. Discussions at these meetings have covered a number of difficult and contentious issues, but the issue at the heart of all correspondence and meetings is the manner in which FPI should serve the Federal market for recycled cartridges so as to minimize any potential impact on the private sector. We now have a proposal we would like to discuss with the industry, which we hope can lead to an agreement. First, however, I would like to briefly set forth the history of our interaction leading up to this point.

On August 23, 1991, FPI published a notice in the Commerce Business Daily (CBD), announcing that FPI proposed to manufacture recycled laser toner cartridges. At the same time, FPI announced that a market impact study assessing the potential impact of FPI on the cartridge recycling industry was available, and FPI requested written comments on the study. The study was widely disseminated, thus providing notice more than three years ago to the industry of FPI's intentions with regard to manufacture of recycled cartridges. Numerous comments were received, including comments from ICRA. All comments were reviewed by FPI and FPI's Board of Directors.

A hearing on this proposal was held before the Board on December 13, 1991. ICRA testified at that hearing, as did several small laser cartridge recycling companies. The issues raised in written comments, and at the time of the hearing, primarily involved quality control of the product, but also the impact of FPI's entry into the market on the fledgling industry. There was testimony at the hearing that if FPI's cartridges were of high quality, then the industry would have no major objections to the market share levels outlined in FPI's competitive impact statement. Concurrence with the market share in FPI's proposal was premised on the expectation that the federal market would grow substantially over the next several years, and that the private sector market, which is available to the industry but not to FPI, was huge and growing. One recommendation made by representatives of the industry at the hearing was that, as a strategy to address quality of the recycled cartridges, FPI should team with a reputable private sector cartridge recycling firm.

The finding of the Board was that production levels reaching 26 percent of the Federal market after about 4 years, as outlined in FPI's competitive impact analysis, was a reasonable share of the federal market.¹ Moreover, in response to requests from the industry, the Board placed two conditions on FPI's entry into the market: FPI was not to begin production prior to FY 1993; and FPI was to manufacture recycled cartridges in a business arrangement with a private sector company.

I should note concerning the size of the market that here, as with virtually all products that are produced by FPI--at least, all products that are purchased by more than one Government agency, there is no information on the size of the federal market by specific product. Thus it is difficult to determine the size of the Federal market with any precision, and estimates must be made from the best available data. While the market as we now estimate it may be slightly smaller than the figures provided to you in our last meeting, I believe there is agreement on the approximate size of the over-all market for recycled cartridges, and the size of the Federal market as derived from the over-all market. For purposes of a working estimate we can safely conclude that the Federal market is around \$83 million² at this time. Based on this figure, FPI sales

¹ The board approved 26 percent of the Federal market as the reasonable share of the market. There was not significant disagreement with this figure in the written comments or at the time of the hearing.

² The overall market for both original equipment and re-manufactured laser printer cartridges is approximately \$2.5 billion, and the Federal government market is estimated to be

would then be "capped" at \$21.6 million.³ At \$50 per unit, this translates to 432,000 units, or 36,000 units per month after the "ramping up" period.

One of the issues that has arisen in our discussions involves FPI's agreement with Cartridge Technology Network, Inc. (CTN), of Herndon, Virginia, the recycling company of which Mr. John B. Conlan is President. A solicitation for a private sector partner in the market was issued, and CTN was selected to partner with FPI following an open and competitive procurement in which the entire industry had an opportunity to bid. In general, I believe that production in tandem with a private company has successfully put to rest the concern of the industry concerning quality, in that the partnership has enabled FPI to produce a product that is not inferior to the industry's product, but actually enhances its reputation and its ability to compete against new cartridges.

Nonetheless, problems have arisen as a result of that partnership, which the industry has brought to our attention. On examination, some of the statements leveled against the contractor were speculative. Nonetheless, there have been growing pains, and as a result, FPI's contract with CTN will be modified in several ways: 1) all correspondence to senior Federal officials will receive prior review by the Senior Program Manager in FPI; 2) all labels on cartridge units returned to Ft. Dix shall be removed in their entirety before affixing an FPI label; 3) CTN will not seek or solicit any new federal government accounts while serving as a contractor to FPI; 4) with the exception of previously existing CTN accounts, all agency customer contacts made by CTN will be done on behalf of FPI; 5) customer contacts initiated by and made on behalf of FPI will not be used to promote in any way the business of CTN or its principals. I believe that these modifications will redress the problems brought to our attention.

Another issue that has been discussed in our meetings involved FPI's entry into a contractual relationship with a customer after a contractor has gone to the effort and expense of preparing a bid package. To avoid such a situation, it has been FPI's general policy for several years to exercise special care with regard to procurements that have been announced in the CBD. Although the availability of solicitations for products

about 10 percent of the total, or approximately \$250 million. If we assume that one of three cartridges in the Federal sector is re-manufactured, then the estimated federal market is \$83 million.

³ That is, 26 percent of \$83 million.

manufactured by FPI should not appear in CBD without a waiver first having been obtained from FPI, occasionally such solicitations are synopsized in CBD without the contracting officer first obtaining a waiver. To avoid harm to private vendors, FPI will not exercise its preference and request retraction of a solicitation following the promulgation of that solicitation.

One immediate application of this principle is that, although FPI has been working with the Defense General Supply Center (DGSC) since the fall of 1993, FPI will not seek a DGSC waiver request in connection with three bids that have closed, where best and final offers have already been solicited. However, this should not be considered as a decision not to supply the agency's requirements in the future. We will continue to work closely with DGSC for requirements that remain open, as well as any further requirements that have emerged subsequent to the recent change in the law. This includes existing requirements that may be awarded for the coming year, but will come up for future renewal during FY 96.

A further issue discussed at our meetings has to do with the pace at which FPI's production will grow, until it meets capacity or 26 percent of the market, whichever occurs first. FPI will slow its planned growth projection considerably, by reducing capacity at Ft. Dix by 50%--i.e., from 30,000 units per month to 15,000 units per month during FY 1995. In addition, FPI will slow the pace of its growth in this product to minimize impact on the industry by extending the time frame to reach 26% of the federal market from our original three-year plan to a five-year plan.

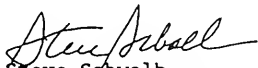
The final issue is the one that has been the focus of most of our meetings over the last several months: how to minimize FPI's impact on the predominately small business enterprises which constitute this industry. In order to ameliorate the impact, FPI is prepared to make the following commitment: for all new business (i.e., new customers), FPI will automatically waive up to 50 percent of an agency's requirement upon the customer's request. This responds to the industry's complaint that it is shut out of an agency's business because the agency has told them that it cannot purchase from them, and it allows agencies that are satisfied that FPI can fully meet their requirements to turn to FPI to meet their needs. In other words, it places the procurement decision in the hands of the customer. Cartridge re-manufacturers can continue to attempt to sell the benefits of their product (price, quality, service, or delivery) to the customer. But the customer must determine that they want to do business with the local supplier. Again, in such cases, FPI will waive 50 percent of the requirement upon a customer's request, without requiring justification from the customer for

-5-

the request. Of course, the agency has the right to request a full waiver from FPI to procure their entire requirement from another source, in cases where the customer believes FPI is unable to meet product requirements. Once FPI reaches its projected production level (26 percent of the federal market) then all work beyond this level will be waived.

During the course of our meetings and correspondence we have each come to learn a great deal about the other, and I think we are in agreement that there are clear benefits to be derived from working together so that FPI can minimize its impact on the industry. We have discussed a number of ways to accomplish this. Finding the right way has been elusive, but I believe the solution described above allows both the industry and FPI to pursue our respective business goals. I look forward to working with you further on these matters which are of such great importance to FPI and to the cartridge recycling industry.

Sincerely,



Steve Schwalb
Assistant Director
Industries, Education and
Vocational Training

TESTIMONY OF JAMES L. RILEY
PRESIDENT, OMNI INTERNATIONAL, INC.
VERNON, ALABAMA

ON BEHALF OF THE QUARTERS FURNITURE MANUFACTURERS ASSOCIATION
AND THE BUSINESS AND INSTITUTIONAL FURNITURE
MANUFACTURERS ASSOCIATION

BEFORE THE HOUSE SMALL BUSINESS COMMITTEE
JUNE 27, 1996

MADAM CHAIR AND MEMBERS OF THE COMMITTEE. MY NAME IS JAMES RILEY. I AM THE PRESIDENT AND CO-OWNER OF OMNI INTERNATIONAL OF VERNON, ALABAMA. OMNI IS A SMALL BUSINESS THAT MANUFACTURERS BOTH OFFICE AND DORMITORY FURNITURE. I APPRECIATE THE OPPORTUNITY TO SPEAK NOT ONLY FOR OMNI BUT ALSO FOR TWO ORGANIZATIONS OMNI HAS JOINED TO PROTECT ITS INTERESTS, BIFMA AND QFMA.

BIFMA, OR THE BUSINESS AND INSTITUTIONAL FURNITURE MANUFACTURERS ASSOCIATION, REPRESENTS OVER 200 SMALL AND LARGE MANUFACTURERS OF BUSINESS, OFFICE AND INSTITUTIONAL FURNITURE AND THEIR SUPPLIERS. LAST YEAR BIFMA MEMBERS SHIPPED OVER \$9 BILLION WORTH OF PRODUCTS. BOTH ORGANIZATIONS ARE PARTICIPATING IN THE COMPETITION IN CONTRACTING ACT COALITION.

QFMA, OR THE QUARTERS FURNITURE MANUFACTURERS ASSOCIATION, IS MADE UP OF 11 MANUFACTURERS OR DEALERS WHO SELL MILITARY BARRACKS TYPE FURNITURE TO THE FEDERAL GOVERNMENT UNDER CURRENT GSA CONTRACTS. EIGHT OF THOSE BUSINESSES, LIKE OMNI, ARE SMALL BUSINESSES WITH FEWER THAN 500 EMPLOYEES.

LET ME SAY AT THE OUTSET THAT WE HAVE NO OBJECTION TO PUTTING PRISONERS TO WORK OR HAVING PRISON LABOR COMPETE WITH US, DESPITE THE IMMENSE COST ADVANTAGE FPI POSSESSES. BUT WE HAVE BEEN HURT BECAUSE FPI HAS EXPLOITED ITS MANDATORY PREFERENCE AND HAS REPEATEDLY VIOLATED A STATUTE THAT REQUIRES ONLY THAT FPI OBTAIN ITS OWN BOARD'S APPROVAL OF ANY SIGNIFICANT FPI EXPANSION. I SPEAK, UNFORTUNATELY, FROM PERSONAL EXPERIENCE.

QFMA'S MEMBERS, WHOSE VERY EXISTENCE IS THREATENED, RETAINED LEGAL COUNSEL WHEN FPI ANNOUNCED ITS INTENTION TO EXPAND ITS SHARE OF THE DORM AND QUARTERS MARKET FROM 25% TO 35%. COUNSEL DISCOVERED THAT FPI HAD INCREASED ITS SALES OF D & Q FURNITURE BY 138%, FROM \$10 MILLION TO \$24 MILLION FROM 1991 TO 1993 ILLEGALLY -- FPI HAD NEVER STUDIED THE IMPACT OF ITS PROPOSED EXPANSIONS ON PRIVATE INDUSTRY NOR SOUGHT BOARD APPROVAL AS TITLE 18 U.S.C. §4122 AND ITS OWN REGULATIONS CLEARLY REQUIRE.

ASKED TO EXPLAIN WHY FPI HAD NOT COMPLIED WITH ITS STATUTE OR ITS REGULATIONS, FPI AND THE DEPARTMENT OF JUSTICE HAVE STONEWALLED. THEY HAVE GIVEN NUMEROUS DIFFERENT LAME EXCUSES NOT ONLY TO QFMA, BUT ALSO TO MORE THAN TWENTY MEMBERS OF THE HOUSE AND SENATE WHO SENT SERIOUS, DETAILED REQUESTS TO ATTORNEY GENERAL RENO SEEKING A FULL EXPLANATION FOR FPI'S NEGLIGENT AND WILLFUL FAILURES TO OBEY THE LAW. WHAT FPI FINALLY AND GRUDGINGLY ADMITTED IN ITS JANUARY 26, 1996 "WHITE PAPER" SHOULD SHOCK THIS COMMITTEE:

- FPI BROKE THE LAW WHEN IT INCREASED ITS D & Q PRODUCTION IN 1992 AND 1993 BY 138% FROM \$10 TO \$24 MILLION WITHOUT PRIOR BOARD APPROVAL.
- FPI BROKE THE LAW WHEN IT CONVERTED ITS SHERIDAN, OREGON FACTORY TO PRODUCE DORM AND QUARTERS FURNITURE IN 1991 WITHOUT BOARD APPROVAL. LAST YEAR, THIS FACTORY PRODUCED \$6.6 MILLION IN DORM AND QUARTERS FURNITURE AT NO TIME HAS FPI'S BOARD APPROVED SHERIDAN'S MAKING SUCH FURNITURE.
- FPI DECLINED TO SEEK BOARD APPROVAL OF THE CONVERSION OF ITS TALLADEGA FACTORY TO D & Q PRODUCTION DESPITE A STRONG STAFF WARNING THAT FAILURE TO DO SO WOULD VIOLATE FPI'S REGULATIONS.

- FROM 1988 THROUGH FY 1995, FPI, AN ARM OF THE DEPARTMENT OF JUSTICE, MADE NO EFFORT TO IMPLEMENT THE PROCEDURES NECESSARY TO COLLECT, PROCESS AND REPORT THE DATA NEEDED TO COMPLY WITH TITLE 18 U.S.C. §4122 AND ITS OWN REGULATIONS. IT HAS THUMBED ITS NOSE AT CONGRESS'S DIRECTION.

- FPI DELAYED ITS MOST RECENT SIGNIFICANT EXPANSION BOARD HEARINGS UNTIL CONGRESS WAS IN RECESS IN DECEMBER 1995. LET ME READ YOU A BRIEF QUOTE FROM A MARCH, 1995 MEMORANDUM THAT WAS DISCUSSED BY FPI'S TOP MANAGEMENT:

IT MAY BE MORE PRUDENT TO PLAN THE ANNOUNCEMENT FOR HEARINGS IN NOV/DEC TIMEFRAME DURING A CONGRESSIONAL RECESS, RATHER THAN NEAR THE END OF THE SESSION WHEN A NUMBER OF ADVERSE BILLS/AMENDMENTS COULD BE PUSHED THROUGH UNNOTICED BY PRIVATE INDUSTRY IN REACTION TO OUR PROPOSED EXPANSION. (EMPHASIS SUPPLIED.)

THAT QUOTE SHOWS THE LENGTHS TO WHICH FPI HAS GONE TO KEEP CONGRESS IN THE DARK.

EVEN THOUGH FPI HAS GRUDGINGLY CONCEDED IT BROKE THE LAW CONSISTENTLY FOR SEVEN YEARS AND UNLAWFULLY DEPRIVED QFMA MEMBERS OF MORE THAN \$44.5 MILLION, FPI STILL IS REFUSING TO MAKE AMENDS. QFMA HAS MADE A COMPELLING CASE IN COURT. BUT IF THE COURT IS SWAYED BY FPI'S PROTESTATIONS THAT IT HAD TO IGNORE

CONGRESS'S MANDATE TO KEEP PRISONERS EMPLOYED, QFMA MEMBERS MAY WELL NEVER BE MADE WHOLE.

WE HAVE BEEN HURT BY FPI IN OTHER WAYS AS WELL. FOR EXAMPLE, IT HAS BEEN FPI'S PRACTICE TO DELAY GRANTING WAIVERS UNTIL THE FOURTH QUARTER OF THE YEAR. YOU CAN IMAGINE THE EXTREME HARDSHIP THAT CREATES FOR A SMALL COMPANY LIKE OMNI WHICH IS COMMITTED TO KEEPING OUR EMPLOYEES WORKING ALL YEAR. FPI HAS ALSO USED INAPPROPRIATE STRONG ARM TACTICS ON OUR MILITARY BASE CUSTOMERS, DEMANDING THAT THEY HAND OVER OMNI'S SCALE DRAWINGS AND DETAILED DESIGN PLANS TO FPI SIMPLY BECAUSE FPI IS THE MANDATORY SOURCE. THE WORST BLOW FOR OMNI CAME WHEN FPI ACTUALLY COPIED OUR LINE AND TOOK THE \$2.5 MILLION IN NEW OVERSEAS ORDERS THAT WE HAD ANTICIPATED RECEIVING. THAT IS WHEN WE HAD TO LAYOFF 50 LOYAL MEN AND WOMEN, MOST OF WHOM ARE HEADS OF HOUSEHOLDS. UNDER CURRENT LAW, WE CANNOT EFFECTIVELY PROTEST SUCH ACTIONS BY FPI. OUR ONLY RECOURSE IS COSTLY LITIGATION.

BIFMA MEMBERS HAVE BEEN TRYING FOR YEARS TO PERSUADE FPI NOT TO OVEREXPAND IN FPI'S "TRADITIONAL" MARKETS OF FURNITURE, ELECTRONICS AND APPAREL. EARLIER THIS YEAR FPI'S BOARD IGNORED

PRIOR STUDIES AND ALLOWED FPI TO DOUBLE ITS OFFICE FURNITURE SALES FROM \$70 MILLION TO \$130 MILLION, OR FROM 15 TO 25% OF THE FEDERAL MARKET. SIMILAR INCREASES WERE APPROVED IN OTHER "TRADITIONAL" LINES SUCH AS WORK AND PROTECTIVE CLOTHING.

VICE PRESIDENT GORE'S NATIONAL PERFORMANCE REVIEW HAS RECOMMENDED THAT FPI'S MANDATORY PREFERENCE BE ELIMINATED. FPI'S CHIEF OPERATING OFFICER HAS SAID THAT FPI IS FULLY CAPABLE OF COMPETING WITH PRIVATE INDUSTRY. WE ASK THAT CONGRESS ACT PROMPTLY ON LEGISLATION THAT WOULD TAKE AWAY THE CLUB THAT FPI HAS USED TO DEPRIVE LAW ABIDING EMPLOYERS AND THEIR WORKERS OF THEIR LIVELIHOODS. WE ASK THAT THIS COMMITTEE ACT TO REPEAL FPI'S MANDATORY PREFERENCE NOW.

FINALLY, MADAM CHAIR, I WOULD ASK YOUR PERMISSION TO HAVE THE EXTENSIVE DOCUMENTS, CONGRESSIONAL CORRESPONDENCE AND COURT PLEADINGS THAT SUPPORT THIS STATEMENT MADE PART OF THE RECORD OF THIS HEARING. THANK YOU.

*ATTACHMENTS TO
STATEMENT OF JAMES L. RILEY, PRESIDENT
OMNI INTERNATIONAL, INC.
VERNON, ALABAMA

ON BEHALF OF THE QUARTERS FURNITURE
MANUFACTURERS ASSOCIATION
AND THE BUSINESS AND INSTITUTIONAL FURNITURE
MANUFACTURERS ASSOCIATION

BEFORE THE HOUSE SMALL BUSINESS COMMITTEE
JUNE 27, 1996

* * * *

- A. Congressional Correspondence (See Attached Index)
- B. QFMA Complaint filed in United States District Court for the District of Columbia. December 5, 1995
- C. FPI "White Paper" admitting to violations of Title 18 U.S.C. § 4122 and FPI Significant Expansion Regulations, January 26, 1996
- D. QFMA Motion for Summary Judgment, Memorandum of Points and Authorities; and Statement of Undisputed Material Facts, filed April 16, 1996
- E. FPI Motion to Dismiss or, in the Alternative, for Summary Judgment; Response to QFMA Statement of Undisputed Material Facts; and FPI Statement of Undisputed Material Facts, filed June 5, 1996
- F. QFMA Response to FPI Motion to Dismiss and Statement of Undisputed Material Facts, filed June 14, 1996
- G. FPI Response, filed June 21, 1996

*Attachments and correspondence are available in committee files.

INDEX OF CONGRESSIONAL CORRESPONDENCE

- 1(a) Letter from Chair Jan Myers to Sally Katzen, Adm., Office of Information and Regulatory Affairs, OMB, regarding "bootleg" collection of information by FPI, January 24, 1996
- (b) Letter from Sally Katzen to Chair Jan Myers, March 22, 1996 forwarding letter from Robert Briggs, Justice Management Division to Jefferson Hill OMB indicating that FPI's request to QFMA for information fell within Paperwork Reduction Act and that FPI would seek OMB clearance of all such future requests
- 2 Letter from Chairman Henry J. Hyde (Ill.), House Judiciary Committee to Attorney General Reno, November 30, 1995
- 3(a) Letter from Senator Howell Heflin, Senator Richard Shelby, Congressman Tom Bevill (Ga.) to Attorney General Reno, November 2, 1995
- (b) Response to Senator Shelby from Assistant Attorney General Andrew Fois, February 1, 1996
- 4(a) Letter from Senator Charles Robb, Representatives L.F. Payne, Thomas J. Bliley, James P. Moran, Herbert H. Bateman, Robert C. Scott (Va.), November 15, 1995
- (b) Response to Rep. Payne from Assistant Attorney General Fois, January 29, 1996
- (c) Fax to FPI Ombudsman Jan Hynson from Rep. Payne requesting that correspondence be included in FPI Board Hearing Record, February 14, 1996
- (d) Response from Rep. Payne to Attorney General Reno stating that Mr. Fois' letter had failed to address questions raised in Delegation's November 15, 1995 letter, February 14, 1996
- (e) Letter from Rep. Payne to Attorney General Reno adding signatures to February 14, 1996 letter, February 28, 1996
- 5(a) Letter from Senator John Warner (Va.) to Attorney General Reno, October 31, 1995
- (b) Letter from Senator Warner to FPI Chief Operating Officer, Steve Schwalb, October 31, 1995

- 6 Letter from Rep. Lamar Smith (Tex.) to Attorney General Reno, October 27, 1995
- 7 Letter from Reps. Howard Coble, Charles Taylor, Fred Heineman, Melvin L. Watt, Cass Ballenger, Richard Burr, David Funderburk, Charlie Rose, W.G. (Bill) Hefner, Walter B. Jones, Jr. (NC) to Attorney General Reno, November 9, 1995
- 8 Response from Assistant Attorney General Fois to Senator Lauch Faircloth (NC), January 29, 1996
- 9 Response from Assistant Attorney General Fois to Senator Herb Kohl (Wi.), January 29, 1996
- 10 Response from Assistant Attorney General Fois to Senator Rick Santorum (Pa.), January 29, 1996
- 11 Response from Assistant Attorney General Fois to Rep. Charles Bass (NH), October 5, 1995

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 FEDERAL PRISON INDUSTRIES' PRODUCTION OF
 DORMITORY AND QUARTERS FURNITURE
 HISTORY AND BACKGROUND
 JANUARY 26, 1996

INTRODUCTION

The purpose of this paper is to provide a historical summary of the production of dormitory and quarters (D&Q) furniture by Federal Prison Industries (FPI). This paper was initiated at the request of FPI's Board of Directors and Corporate Management pursuant to a variety of questions which resulted from FPI's proposed expansion of D&Q furniture production. (A separate, detailed market impact study was prepared in support of the proposed expansion; thus, this paper will not restate those matters.)

FY 1990 (which covers the period October 1989 through September 1990) was chosen as the starting point for data collection. This was done for several reasons. First, the interim definition of significant expansion which implemented the guidelines statute was published during this fiscal year (December 1989). Second, although the fiscal year began in October, since the corporate operating plan is typically developed and approved several months in advance, FY 1990 represents the last year of FPI production before the statute and guidelines took full effect.

Information for this paper was gathered from review of financial, production, sales and other data in the central office, as well as relevant records from the various institutions. Information was also collected through interviews with the key staff who have contemporaneous knowledge.

It should be noted that the terms "production" and "sales" are used interchangeably in this paper. Although the statute and rules make more frequent references to "production", it has long been FPI's practice to measure a factory's "production" by its "sales". Thus, the terms are considered synonymous. (The term "capacity" is not synonymous with "production" or "sales". "Capacity" is an integral part of the aforementioned guidelines rules and will be addressed in more detail later in this paper.)

D&Q PRODUCTION BY LOCATION AND YEAR

Attachment 1 shows D&Q sales generated by each FPI factory from FY 1990 through FY 1995. Details for each individual fiscal year and institution are provided below, as well in Attachments 2-6.

FY 1990

During FY 1990, FPI produced D&Q furniture at nine factories. At that time, FPI produced two types of D&Q furniture, finished

* Attachments available in Committee files

solid wood and laminate over particle board. The former was produced at Leavenworth and Marianna, while the latter was made at Dublin, Lompoc, Talladega, Tallahassee and Texarkana. The latter five institutions also produced an office furniture line made from laminate over particle board, thus their production capacities were compatible for either product. Two factories, Lewisburg and Milan, produce metal products and had D&Q sales from products such as lockers, wardrobes and bed drawers. The factory at Sheridan activated in November 1989, and was initially designed and approved to produce finished casegoods. Thus, there were no D&Q sales from Sheridan in fiscal year 1990. Total sales of finished wood D&Q furniture totaled \$7,020,679; sales of laminate D&Q furniture totaled \$2,152,895. Metals D&Q sales totaled \$2,364,877.

FY 1991

Both Leavenworth and Marianna increased production of finished wood D&Q furniture in FY 1991. At Marianna, this was accomplished with the addition of a second shift. Sales potential for finished D&Q furniture was on the rise, so the corporation decided to expand production by utilizing part of Sheridan's capacity to produce this style of D&Q furniture. At the same time, demand for the laminate D&Q was declining and sales of this product dropped by approximately one-third. The production at most of the laminate D&Q factories was adjusted downward. In FY 1991, Morgantown produced a modest amount of D&Q furniture made from laminate over particle board. Information submitted by Morgantown's Superintendent of Industries suggest these sales were a one-time production run. The factory at Morgantown has not produced any D&Q items since that time. Lewisburg ceased its production of D&Q products in order to focus on other sales demands and has not produced D&Q furniture since. Milan produces metal lockers that fall within the FSC code for D&Q furniture as well as lockers that fall within other FSC codes. Discussions with Milan's Associate Warden for Industries indicate that during FY 1991, Milan did not produce any metal lockers within the FSC code for D&Q furniture.

Sales of finished D&Q furniture totaled \$8,867,769; sales of laminate D&Q totaled \$1,425,567. Total D&Q sales for FY 1991 declined by \$1,245,115 from FY 1990. The number of factories producing D&Q declined from nine to eight. As indicated in Attachment 2, FY 1991 was also the first year that FPI began recording its sales by the Bureau of the Census' 7-digit Standard Industrial Classification (SIC) codes in addition to the Federal government's 4-digit Federal Supply Classification (FSC) codes.

FY 1992

FY 1992 saw a doubling of total D&Q sales over 1991. Most of that increase came in finished D&Q (up \$9,578,656), with a

smaller jump in laminate D&Q (up \$812,017). Most of the finished D&Q increase occurred at Leavenworth, which more than doubled its production. A conversation with the Associate Warden for Industries at Leavenworth indicates that upon his arrival, near the end of FY 1990, he observed that the factory's production runs were geared to each order, resulting in inordinate down time to change the equipment set-up. With corporate management's approval, he converted the factory to produce for forecasted sales. This allowed the factory to make long production runs of each item, virtually eliminating the unnecessary down time. The factory was able to fill its orders from finished goods produced ahead of time and stored in the warehouse. This change in production strategy allowed Leavenworth to more than double its D&Q sales.

An increasing share of Sheridan's production was devoted to D&Q and its sales rose to nearly \$1 million. Despite an overall increase in laminate D&Q, the number of factories producing this product decreased from four to three. Although Lompoc again had D&Q sales this year, both Morgantown and Texarkana ceased producing laminate D&Q furniture and have not produced any since.

The total number of factories producing D&Q decreased from eight to seven. Finished D&Q sales were \$18,446,425 and laminate sales were \$2,237,584.

FY 1993

FY 1993 saw an increase in D&Q sales to its highest level during the six-year period. Due to the routine abuse which D&Q furniture must withstand and the enhanced durability and attractiveness of solid wood in comparison to laminate, customer demand was shifting almost exclusively to finished D&Q.

Finished D&Q sales rose by \$4,942,465 to \$23,388,890. Most of this increase, \$3,970,997, came from Sheridan's almost total conversion to D&Q production. Laminated D&Q sales fell by \$1,546,627 to \$690,957. Milan resumed the production of metal lockers that fall within the FSC code for D&Q furniture.

FY 1994

Total D&Q sales in FY 1994 declined \$3,825,994. Finished D&Q sales fell \$3,404,900 and laminate sales dropped \$421,094. The majority of the finished D&Q sales reduction was at Leavenworth, where sales declined \$3,271,706. Marianna had an increase in D&Q sales which was slightly exceeded by a decrease at Sheridan. Due to the continuing decline of laminate D&Q sales, Tallahassee ceased production of laminate D&Q and the total number of FPI factories producing D&Q furniture dropped from seven to six.

The decline in overall D&Q sales and the virtual demise of the laminated style of D&Q was a cause of concern. While the factories with laminate D&Q capability could shift their production to laminate office furniture, this too was in declining demand and other alternatives were needed to utilize some of the capacity in these factories. It was decided that production at the three factories producing finished D&Q should be constrained in order to support the upgrade of one of the laminate D&Q factories to finished D&Q. Of the factories capable of producing laminate D&Q (Dublin, Lompoc, Morgantown, Talladega, Tallahassee and Texarkana), Talladega was chosen for two reasons: (1) it was the only medium security facility (the others were low or minimum security), therefore maintaining sufficient inmate employment was more critical to the management of the institution (Leavenworth is high security; Marianna and Sheridan are medium security); (2) it was felt that the Talladega factory layout would facilitate a relatively inexpensive upgrade to allow for the production of finished D&Q furniture.

Concurrent with these deliberations, an analysis was requested to determine whether the output capacity of Talladega resulting from this upgrade would require a significant expansion announcement under the guidelines rules. The results of that analysis, using the historical methodology for determining FPI's share of the Federal market, are reflected in Attachment 7. Based on that analysis, it was decided that Talladega's factory should be upgraded to produce finished D&Q furniture, but that output would have to be limited accordingly. The Talladega factory upgrade was not completed until the end of the first quarter of FY 1995.

During the time the Talladega issue was being internally deliberated, representatives from the Coalition for Government Procurement and the Quarters Furniture Manufacturers Association (QFMA) requested a meeting with FPI management. During this meeting, they indicated that they had heard that FPI was considering expanding D&Q furniture production at Talladega. They were told that Talladega was being considered for partial production of finished D&Q. They were also advised that once a decision was made about Talladega, they would be advised. They were so notified at the time the decision was made to proceed with the upgrade at Talladega.

FY 1995

Early in FY 1995, there was discussion among staff about whether D&Q procured by the military with non-appropriated funds were being reflected in the total purchases by the Federal government. Staff were asked to gather data on this issue. During this same time, additional meetings were held with representatives of QFMA and the Coalition for Government Procurement. Concern was voiced that FPI's methodology for measuring the size of the Federal market overestimated the level of Federal procurements of D&Q

furniture. After discussions with QFMA, FPI agreed that its methodology should be adjusted. The change resulted in a substantial reduction in the level of Federal D&Q purchases (the denominator in FPI's market share equation), thereby increasing FPI's market share, even though FPI's sales (the numerator in the same equation) had declined (see Attachment 8).

Based on this market share change, FPI determined the guidelines rules would require that any production increases be proposed in conjunction with a market impact study, with the final decision to be made by the Board of Directors. In light of this development, FPI administratively capped its FY 1995 production so as not to exceed its FY 1994 sales levels, pending Board action.

Total D&Q sales for FY 1995 were \$776,542 below FY 1994. This year also saw the closure of the Dublin furniture factory, terminating the production of laminate D&Q, and reducing the number of D&Q factories from six to five.

FY 1996

Although no sales figures are presented for the current fiscal year, it should be noted that FPI has administratively extended its production goal from FY 1995 (that is, not to exceed its FY 1994 D&Q sales levels) until the Board issues a decision on the expansion proposal under current consideration.

THE GUIDELINES RULES AND THEIR APPLICATION TO D&Q PRODUCTION

The definition of significant expansion, first published as an interim definition in December 1989, provides guidance on the circumstances in which an increase in FPI's production capacity is considered significant and when an increase in FPI's market share requires approval by the Board of Directors. The following is excerpted directly from the rules:

"Proposed production increases by UNICOR will be reviewed as part of the Corporation's annual planning cycle and will be deemed to be a significant expansion of production of an existing product under the following circumstances:

- 1) The specific product will be produced at a new factory and not offset by a corresponding reduction in production at another location; or
- 2) The specific product will be produced at an existing factory or factories, and will be accompanied by at least a 10% increase in capacity resulting from expanding any of the following three inputs of

production: a) Plant size, b) Equipment capacity, c) Inmate employment.

(The complete rules are included as Attachment 9.)

As indicated, the relevant expansion criteria are: the opening of a new factory which is not offset by reduction at another location, or increases in space, equipment or inmate labor at existing factories. Attachments 10, 12 and 13 provide data relevant to these criteria for the years in question.

CHANGES IN PLANT SIZE

As discussed in the previous section, several FPI factories produced D&Q furniture during the last six years. However, in most instances, the factories produced other lines in addition to D&Q. As a result, the same production space used to manufacture D&Q furniture was also used to produce FPI's Centurion office furniture line, Allenwood office furniture line or FPI's metal racking and shelving, depending on the factory.

Since 1990, FPI has not added to the production space of any of the factories manufacturing D&Q furniture. However, since some factories stopped making D&Q furniture just as other factories were resuming production, the method used to measure changes in production space is the cumulative size of the factories involved. We have not attempted to prorate the production space, since it could present an inaccurate or misleading picture. However, as Attachment 1 (which provides the number of factories) shows, it is likely that the square footage using this method would have also declined. Attachment 10 lists the total production space for each factory producing D&Q furniture from FY 1990 through FY 1995. With the consolidation of production of D&Q, the amount of production space was decreased by over 40%.

FY 1990

As discussed in the previous sections, during FY 1990, FPI had sales of D&Q furniture at factories in Dublin, Leavenworth, Lewisburg, Lompoc, Marianna, Milan, Talladega, Tallahassee and Texarkana. These nine factories have a cumulative production space of 450,100 square feet.

FY 1991

In FY 1991, laminate D&Q furniture was produced for the only time at Morgantown while production of finished D&Q began at Sheridan. Lewisburg, Lompoc and Milan did not produce any D&Q items. The number of FPI factories producing D&Q furniture dropped from nine to eight. The total square footage of FPI factories making D&Q furniture dropped from by over 100,000 square feet to 342,200.

FY 1992

In FY 1992, Morgantown and Texarkana ceased production of laminate D&Q, while Lompoc resumed production. During FY 1992, the number of FPI factories producing D&Q items dropped from eight to seven. The total square footage of the FPI factories manufacturing D&Q furniture dropped from 342,200 to 279,000.

FY 1993

In FY 1993, Lompoc ceased all laminate D&Q production, while Milan again produced metal items within the FSC code for D&Q furniture. The total number of factories producing D&Q items remained at seven. The total square footage of the factories increased slightly to 297,300.

FY 1994

The factory at Tallahassee ceased production of laminate D&Q in FY 1994, dropping the total number of factories producing D&Q items from seven to six. The total square footage of the factories involved decreased from 297,300 to 275,300.

FY 1995

In FY 1995, the factory at Dublin closed, ceasing all production, including that of laminate D&Q. The factory at Talladega completed an upgrade to produce finished D&Q furniture. However, this upgrade did not change the size of the factory's production space. The total number of factories producing D&Q items fell from six to five. The total square footage of the factories producing D&Q furniture dropped to 265,300.

CHANGES IN THE NUMBER OF INMATES

FPI records the number of inmates employed at each of its factories. However, in factories producing more than one item, the number of inmates employed is aggregated, and thus it is difficult to separate inmates into the different production lines (such as D&Q furniture, office furniture or metal items). . Such a task would be particularly difficult in any factory where there are multiple products, and inmates may be pulled off a project to work on another job (for a different product line) or in a different area of the factory.

As a result, FPI does not have exact number of inmates employed in the production of D&Q furniture for each factory. In order to measure the number of inmates employed to manufacture D&Q furniture, FPI took the percentage of each factory's total sales which were represented by D&Q furniture. That percentage was applied to the factory's inmate employment. The results are

included as Attachment 11.

Though the number of factories and size of production space used to manufacture D&Q furniture have both dropped over the last six years, the number of inmates employed to produce D&Q has risen from 584 in FY 1990 to 747 in FY 1995.

FY 1990

During FY 1990, inmate employment for production of D&Q furniture totaled 584. Just over 2/3 of this total was represented by Leavenworth and Marianna. This reflects the fact that these were the only two factories for which D&Q was the primary product. Most of the other factories had 15% or less of their inmates involved in the production of D&Q furniture.

FY 1991

The number of inmates employed in the production of D&Q furniture dropped to 515. This decrease follows FPI's decrease in sales of D&Q furniture during FY 1991. While Marianna added 42 inmates producing D&Q, the other factories combined to employ 111 fewer inmates making D&Q furniture. This was primarily due to the factories at Lewisburg, Lompoc and Milan not producing any D&Q during FY 1991.

FY 1992

During FY 1992, the number of inmates employed to produce D&Q furniture increased to 665. The rise was primarily due to increased employment at Leavenworth (up 31), a resumption of production at Lompoc (22), increases at Marianna (up 25), an increased percentage of production at Sheridan (up 48) and increased production at Tallahassee (up 45). These increases more than offset the termination of production at Morgantown (down 16) and Texarkana (down 10).

FY 1993

Employment of inmates making D&Q furniture rose to 729 during FY 1993. The rise was due almost entirely to the continued shift of production at Sheridan (up 116) from office furniture to D&Q. Employment at Leavenworth remained constant while Marianna experienced only a modest rise (up 14) from the previous year. The only other large change was a decrease at Tallahassee (down 49) as that factory's production returned to office furniture.

FY 1994

FY 1994 saw inmate employment for D&Q furniture drop by 47 to 691. Employment dropped everywhere but Marianna (up 50) and Talladega (which by the end of the year was preparing to upgrade

to finished D&Q production). Sheridan (down 42) and Leavenworth (down 26) reduced employment.

FY 1995

Inmate employment during FY 1995 rose to 747, its highest level. The rise was in concert with the completion of Talladega's upgrade to produce finished D&Q. Cumulative inmate employment at Leavenworth, Marianna and Sheridan dropped moderately from the previous year (down 32).

ADDITIONAL EQUIPMENT

For the most part, FPI has made minimal purchases of additional production equipment for the factories producing D&Q furniture. As explained earlier, this is because those factories producing laminated office furniture could produce laminate D&Q without any additions to the existing equipment, while the metal factories could produce metal D&Q items also without the need for any additional equipment.

Attachment 12 lists the production equipment purchased by each FPI factory producing D&Q since FY 1990. FPI's records do not note whether such equipment replaces existing machinery or supplements the factory's production capacity. Through discussions with staff with contemporaneous knowledge, FPI has determined that the only major additional (as opposed to replacement) equipment purchases were at Sheridan in FY 1993 for a new finishing system and at Talladega in FY 1994 as part of its upgrade to produce finished D&Q.

FY 1990

Capital expenditures for machinery and equipment for the factories producing D&Q totaled \$1,041,330. The bulk of this expenditure was at Sheridan for the purchase of the factory's original production equipment.

FY 1991

During FY 1991, factories producing D&Q had capital expenditures for machinery and equipment for \$91,580. The largest segment of this outlay (\$34,815) was at Marianna for the purchase of a rip saw and superdrill.

FY 1992

FPI made \$272,963 in equipment purchases for factories producing D&Q furniture in FY 1992. The main items contributing to this total were an edge bander and boring machine at Sheridan for \$90,593, and a bandsaw and sander at Talladega for \$68,331.

FY 1993

In FY 1993, there were \$325,664 in equipment purchases for those factories making D&Q furniture. The primary procurement contributing to this total was the finishing system at Sheridan. The finishing system was for use in production of both Allenwood executive office furniture as well as D&Q. Equipment purchase costs at Sheridan in FY 1993 were \$169,817.

FY 1994

Total capital expenditures at factories producing D&Q furniture were \$131,585 during FY 1994. The bulk of this total (\$83,175) was represented by the upgrade at Talladega.

FY 1995

Of the FPI factories producing D&Q furniture, only Talladega reported any production equipment purchases during FY 1995. Talladega bought a shaper for \$8,034 to complete its upgrade to manufacture finished D&Q.

CONCLUSIONS

There are four factors which FPI must examine as a preliminary matter, as a first step in determining whether a significant expansion has taken place so as to require FPI to go through the guidelines process. These four factors are whether a new factory (not offset by the closing of another factory) has been opened, or whether capacity has been increased by adding inmates, equipment, or space at existing institutions. The latter three factors apparently were not given equal weight to the first (i.e., the opening of a new factory) for alerting FPI to do a further examination as to whether the guidelines process needed to be undertaken.

There are several reasons for this breakdown:

First, the information concerning the adding of inmates, space and equipment has not been methodically reported, and in some cases is not collected in a sufficiently segmented fashion for purposes of measuring the extent of the expansion;

Second, there was no formal mechanism to bring to the attention of the appropriate staff the information on additions to space, inmates or equipment, so that they were be linked to the decision making process regarding the guidelines;

Third, the opening of a new factory--in this case Sheridan--which should ordinarily serve as the clearest kind of indication of the need to analyze whether the guidelines process should be

pursued, did not trigger the appropriate inquiry. There are primarily two reasons for this:

(a) when Sheridan was first opened in 1989, it was established as a flexible furniture factory, with the capability to produce both office and D&Q furniture. Production of D&Q furniture did not take place at Sheridan from the outset. It was not until FY 1991 that the shift was made to produce D&Q for residential use.

(b) when production of D&Q first came on line at Sheridan, it was more than offset by a phase out of production at three other institutions (Lewisburg, Lompoc and Milan).

Fourth, the definition of "significant expansion" lacks clarity in certain important respects, thus greatly increasing the difficulty of its application. For example, it does not clearly indicate that the 10 percent increases are to be measured in the aggregate, across all factories producing the product, as opposed to within a single factory. Because of changing inmate population and employment needs across the BOP at any given point in time, there may be a substantial amount of movement in work orders across locations to support inmate job needs as well as customer orders and shipping points. Compounding this difficulty, because of fluctuations caused by a variety of factors, employment levels may go up one year and down the next (measured either on an aggregated basis or within an institution), raising the question of whether some type of averaging is called for. Nonetheless, Attachment 12, (Number of Inmates Producing D&Q Furniture) shows that between 1991 and 1992, and again between 1992 and 1993, the increase in inmates did exceed 10% in the aggregate.

Fifth, the definition is also unclear as to whether and how to handle expansion in inmates, equipment, and space that occurs in one year (with actual output expanding only little, if any, during that time), but not fully utilized until a subsequent year.

Notwithstanding all this, it remains true that simply by "eyeballing" the production data in Attachment 1, it appears that there were sufficiently large increases in production of D&Q furniture, so that apart from whether the increases were "significant" in a technical sense, they were large enough in lay terms to have alerted FPI that a closer examination of the data was needed to see whether, in fact, the guidelines process needed to be pursued.

While, in retrospect, the expansion in production from 1991 to 1993 is evident, one tracking problem is that federal market information is not readily available from the Federal Procurement Data Center (FPDC) until 8-9 months after the close of the fiscal

year. Thus by the time FPI can determine its market share for a given year, e.g., FY 1992, we are already at/near finalization of the Operating plan for the coming year, i.e., fiscal 1994.

Applying the information that we have, it seems apparent that the guidelines process should have been undertaken with regard to D&Q furniture at two junctures: first, when Sheridan was shifted into production of D&Q furniture; second, when production was increased between 1991 and 1992, partly in connection with increased capacity at Marianna; and third, when the production increased in 1993. In reality, had FPI requested approval from the Board for expansion, there would have been one request during this time frame, most likely in 1991.

Recommendations

1. The definition of Significant Expansion needs to be reviewed, with input from the private sector, to make sure it is fair, clear, and practical in its application.
2. Whatever factors are chosen as indicators of significant expansion, mechanisms must be put in place so that the necessary data by which the indicators are measured is adequately collected and transmitted to the appropriate FPI staff for a determination of whether the guidelines process should be undertaken. Over the past year, formal direction has been given and a number of steps have been taken, to correct this deficiency.

GENERAL ENGINEERING SERVICE, INC.

5020 OLD DIXIE HIGHWAY - P.O. BOX 1303

FOREST PARK, GEORGIA 30050

FAX 404/366-0657

PHONE 404/366-0651

June 25, 1996

Summary of Testimony

Timothy N. Graves, Executive Vice President & co-owner
of General Engineering Service, Inc.

General Engineering Service, Inc. is a small business located in Forest Park, Georgia. General Engineering's principle business lines are extruded aluminum missile & munitions shipping and storage containers. About 75% of the company's revenue is from containers.

General Engineering (GESI) has manufactured over 25,000 missile & munitions shipping and storage containers since 1984. In 1987, the company was selected Small Business of the Year by Eglin AFB because of our performance on the HARM missile container, TACIT Rainbow container, and the BLU-109 2000 lb. penetrator bomb program. In 1988, GESI was awarded the Small Business Administration's "U.S. Small Business Administrator Award of Excellence." GESI has received numerous other awards and citations from prime contractors such as Lockheed Martin for support on the BLU-109, 2000 lb. penetrator program. GESI is currently a certified vendor for Olin Ordnance, Aerojet, and Textron Defense.

In July 1995, GESI learned through the Commerce Business Daily that Eglin AFB intended to procure aluminum shipping & storage containers for the AMRAAM missile. GESI had produced this container (CNU-431/E) in prior years and had in place the tooling, personnel and equipment necessary for its manufacture. About that time, GESI learned that the Air Force planned to purchase containers for another missile, the AGM-130 (the All-Up-Round CNU-578 container). GESI contacted the contracting officer for both the AMRAAM and AGM-130 missiles and requested copies of the bid packages. Thereafter, GESI was notified by the respective Contracting Officers that Federal Prison Industries (FPI) would be the sole source for the manufacture of both containers.

The Contracting Officer for the AGM-130 container notified GESI that although the original plan for procurement had been to solicit the proposal on a competitive basis from small business contractors, FPI had demanded the contract. GESI contacted the program director for both AMRAAM and AGM-130 who informed us that the law required the Air Force to award the container contract to FPI. Further, FPI was unwilling to grant a waiver for the containers.

I personally visited the program director of AMRAAM and informed him that I did not believe FPI should be the source for manufacture of the missile containers. He stated that it was his understanding that the law mandated that FPI be the source and that he had no choice, and his hands were tied.

About September 15, 1995, GESI filed a complaint in the United States District Court in

Atlanta, Georgia: GESI vs. Janet Reno, Attorney General and Catherine Hawk, Federal Prison Industries, Inc., United States of America. GESI and its council expended numerous hours and costs as we attempted to process our complaint against FPI and the Justice Department. GESI incurred approximately \$50,000 in costs, of which \$22,000 was in legal fees. After lengthy depositions of both Air Force personnel and FPI personnel, the complaint was eventually settled. FPI agreed not to attempt to secure any additional container contracts until a formal impact study could be performed and a decision could be made by the Board of Directors as to whether aluminum shipping & storage containers could be added to the approved FPI schedule of products. FPI also agreed to pay GESI \$22,000 in legal fees. The contracts for the containers at Eglin AFB were eventually awarded to companies that were classified as small businesses and/or 8A.

The impact study is currently being performed by FPI, and on July 22, 1996, the FPI Board will hear arguments from industry as to whether it should be allowed to manufacture aluminum & steel shipping and storage containers.

Points of Concern:

1. Federal Prison Industries' marketing and management personnel do not strictly follow the statutory guidelines for adding to the approved schedule of products.
2. There does not appear to be adequate control over the management of FPI to ensure that it does not claim more than a reasonable share of the market.
3. The FPI Board should be required to adhere strictly to the required "reasonable share" of the market, such as 10% or 20%. FPI should not be allowed to exceed that percentage of the market for a specific product as defined by the 13-digit National Stock Number.
4. The FPI tends to group products together under one SIC code and not by specific product. FPI tends to take a product such as a container used to store clothing, and combine that with a container to store a precision guided missile in order to produce skewed results in its impact statements.
5. FPI should be required to account for the products manufactured based on the National Stock Number at the 13-digit level. This reporting method would more accurately represent the true market share that FPI is taking.
6. The FPI should be required to compete on a level playing field with private-sector manufacturers for goods and services provided to the United States Government. To ensure that FPI is competing on a level playing field would be very difficult. FPI labor force consists of inmate labor which earn an average of \$.66 an hour. The principle lending institution that provides working capital to the FPI is the federal treasury.
7. There should be an independent, third party to settle disputes between the Federal Prison Industries and the private-sector manufacturers.

REMARKS BY
ROGER ENGLISH
ADM INTERNATIONAL
BEFORE THE
HOUSE SMALL BUSINESS COMMITTEE
JUNE 27, 1996

THE IMPACT OF FEDERAL PRISON INDUSTRIES ON
SMALL BUSINESS

UNICOR HEARING

JUNE 26, 1996

INTRODUCTION

THANK YOU CHAIRMAN MEYER AND CONGRESSMEN FOR GIVING ME THIS OPPORTUNITY TO EXPRESS MY THOUGHTS CONCERNING A MATTER THAT HAS BEEN A DEEP AND GROWING CONCERN OF MINE FOR MANY YEARS. I AM ROGER ENGLISH, AN EMPLOYEE OF ADM INTERNATIONAL, AN AMERICAN COMPANY WHICH IS A MEMBER OF THE QUALITY FURNITURE MANUFACTURING ASSOCIATION AND THE COALITION FOR FAIRNESS IN GOVERNMENT PROCUREMENT.

BACKGROUND INFORMATION

ADM IS A SMALL BUSINESS SELLING INTERIOR FURNISHINGS TO HOTELS, NURSING HOMES, COLLEGES, THE FEDERAL GOVERNMENT AND OTHER COMMERCIAL ESTABLISHMENTS. HOWEVER, I AM HERE TODAY, SPEAKING ON BEHALF OF THE MANY CITIZENS WHO HAVE FELT INTIMIDATED, BULLIED, AND EVEN THREATENED BY THE ACTIONS OF THE FEDERAL PRISON INDUSTRIES. OVER THE LAST 15

YEARS, I HAVE WATCHED THE FPI IGNORE AND ABUSE PRINCIPLES THAT HAVE HELPED MAKE OUR COUNTRY GREAT. IF I SOUND LIKE A PATRIOT--**I AM** --I PERSONALLY HAVE NOTHING TO GAIN EXCEPT THE SATISFACTION OF SEEING A GOVERNMENT SPONSORED BULLY BEING MADE TO FOLLOW THE LAWS AND RULES WHICH THE REST OF US MUST ADHERE TO.

THE FEDERAL PRISON INDUSTRIES IS UNDER THE CONTROL OF THE DEPARTMENT OF JUSTICE - THE DEFINITION OF JUSTICE IS THE QUALITY OF BEING FAIR -- FAIRNESS AND JUSTICE IS ALL THAT I ASK.

IS THIS JUSTICE?

1) IS IT JUSTICE - THAT FEDERAL ACQUISITION REGULATIONS HAVE A CLAUSE WHICH ALLOWS FEDERAL PRISON INDUSTRIES TO REFUSE A POTENTIAL BUYER FROM CONSIDERING A PURCHASE FROM

ANOTHER SOURCE EVEN THOUGH IT QUITE LIKELY WILL BE OF A BETTER QUALITY AND LESS EXPENSIVE AND THEREFORE SAVE THE TAXPAYERS SOME OF THEIR HARD EARNED DOLLARS.

2) IS IT JUSTICE THAT FEDERAL PRISON REPRESENTATIVES WOULD INTIMIDATE AND EVEN THREATEN GOVERNMENT EMPLOYEES TO PURCHASE THEIR PRODUCTS?

3) IS IT JUSTICE THAT FEDERAL PRISON INDUSTRIES WOULD STEP ON AND TAKE BUSINESS AWAY FROM A DISABLED VIETNAM VETERAN WHO WAS TWICE WOUNDED FIGHTING FOR OUR COUNTRY AND GIVE THAT WORK TO CRIMINALS WHO HAVE TRAMPLED ON HONEST CITIZENS RIGHTS; THEREFORE EFFECTIVELY DESTROYING AND BANKRUPTING THAT HERO'S BUSINESS WHICH THE VETERAN'S ADMINISTRATION SUGGESTED HE ENTER. INCIDENTALLY, HIS PRODUCT WAS FAR SUPERIOR AND MORE ENVIRONMENTALLY

PROTECTIVE THAN THE PRODUCTS BEING FORCED INTO GOVERNMENT FACILITIES BY FEDERAL PRISON INDUSTRIES.

4) IS IT JUSTICE THAT A SMALL BUSINESS PERSON WOULD SPEND MONTHS OR EVEN YEARS ASSISTING A GOVERNMENT FACILITY IN PLANNING AND DETERMINING THEIR FURNISHING NEEDS. (THESE PROJECTS INCLUDE DESIGN WORK, COLOR RENDERINGS, AND SOMETIMES COMPLETE SAMPLE ROOMS - ALL AT A COST OF MANY HOURS OF WORK AND THOUSANDS OF DOLLARS) AND THEN AFTER ALL OF THE WORK IS DONE, FEDERAL PRISON INDUSTRIES MUSCLES IN AND STEALS THE JOB WITHOUT SO MUCH AS OFFERING ONE IOTA OF SERVICE OR ASSISTANCE TO THE CUSTOMERS. DOES THIS SOUND LIKE A BUSINESS TRANSACTION OR A MUGGING?

5) IS IT JUSTICE THAT FEDERAL PRISON INDUSTRIES PAYS FOR THE COST OF BRINGING GOVERNMENT EMPLOYEES TO THEIR FACTORIES IN AN EFFORT TO INFLUENCE THEIR BUYING DECISIONS. IN

ADDITION, THEY ALSO PAY THE EXPENSES OF SOME GOVERNMENT EMPLOYEES TO ATTEND TRADE SHOWS IN ENTERTAINMENT CENTERS SUCH AS SAN FRANCISCO, CHICAGO AND OTHER CITIES. THESE GOVERNMENT EMPLOYEES INCLUDE MILITARY DESIGNERS, CONTRACTING OFFICERS, AND OTHER DECISION MAKERS. A PRIVATE CITIZEN OR COMPANY DOING THE VERY SAME THING WOULD BE PROSECUTED, FINED AND POSSIBLY SENT TO PRISON FOR VIOLATING OUR FEDERAL LAWS. AND GUESS BY WHO - OF COURSE, OUR DEPARTMENT OF JUSTICE.

6) IS IT JUSTICE THAT A LAW-ABIDING, TAXPAYING, CITIZEN, WHO MAY SUPPORT A WIFE AND SEVERAL CHILDREN SHOULD BE MUGGED BY HIS GOVERNMENT IN THE GUISE OF FEDERAL PRISON INDUSTRIES. BY UNILATERAL DECREE AND WITHOUT ANY CONSIDERATION, FPI TAKES HIS JOB AND GIVES IT TO A CONVICT. THIS CONVICT MAY BE IN PRISON BECAUSE HE STOLE FROM THE GOVERNMENT - OR YOU NAME THE CRIME?

7) IS IT JUSTICE THAT FEDERAL PRISON INDUSTRIES GRAB A MULTI-MILLION DOLLAR FURNITURE JOB IN THE VERY DESIGN STAGE AND REFUSE TO CONSIDER WAIVERS FOR ANY TYPE OF COMPETITION; THIS, IN SPITE OF THE FACT THAT NONE OF THE END USERS WANT ANY PART OF FEDERAL PRISON INDUSTRIES OR THEIR REPRESENTATIVES.

8) IS IT JUSTICE THAT FEDERAL PRISON INDUSTRIES WHO PROMOTES THAT IT MANUFACTURES PRODUCTS, IN MANY CASES BUYS MANUFACTURED PRODUCTS AND RESELLS THEM TO THE GOVERNMENT AND IN AT LEAST SOME INSTANCES, THESE PRODUCTS ARE PURCHASED FROM OTHER COUNTRIES. IN SOME OTHER CASES, FPI BUYS TOTALLY MANUFACTURED PRODUCTS WHICH ARE DISASSEMBLED AND ONLY HAVE TO BE REASSEMBLED.

WE HAVE ALL HEARD THE FEDERAL PRISON INDUSTRIES' ARGUMENTS:

A. THEIR ARGUMENT IS: FPI CAN PROVIDE PRODUCTS OF EQUAL OR BETTER QUALITY THAN THE PRIVATE INDUSTRY.

B. THEIR ARGUMENT IS: FPI CAN MAKE DELIVERY AS PROMPTLY AS PRIVATE INDUSTRY.

C. THEIR ARGUMENT IS: FPI CAN MAKE THE SAME PRODUCTS AS PRIVATE INDUSTRY AT A LOWER PRICE, THEREBY SAVING THE TAXPAYER MONEY.

IF THESE THREE STATEMENTS WERE TRUE, FPI WOULD NOT HAVE TO HAVE THE TOTALLY UNJUST MANDATORY STATUS CLAUSE THAT GIVES THEM THE UNILATERAL POWER TO ELIMINATE COMPETITION BY DICTATORIAL FIAT. THEY ALREADY HAVE A TREMENDOUS COMPETITIVE ADVANTAGE, SINCE THEIR CHARGE IS TO PRODUCE HIGH LABOR INTENSE PRODUCTS AND PRIVATE INDUSTRY HAS TO PAY ITS WORKERS APPROXIMATELY TEN TIMES OF THAT PAID BY

FEDERAL PRISON INDUSTRIES. PRIVATE INDUSTRY ALSO PAYS INCOME TAXES, UNEMPLOYMENT COMPENSATION, SOCIAL SECURITY TAXES AND ON AND ON.....WHILE FPI IS BURDENED WITH **NONE** OF THESE COSTS.

D. THEIR ARGUMENT IS: FPI NEEDS TO TEACH WORK ETHICS TO THE CONVICTS AND GIVE THEM A TRADE. YOU CAN'T TEACH WORK ETHICS BY HAVING TOO MANY WORKERS AND TAKING TOO LONG A TIME TO DO TOO LITTLE WORK. I HAVE VISITED THEIR FACTORIES AND THAT IS EXACTLY THE SITUATION THAT I HAVE OBSERVED. FURTHERMORE, IT IS IMPOSSIBLE TO GET ANY STATISTICS CONCERNING RELEASED CONVICTS GETTING JOBS IN THEIR PRISON-TRAINED SKILLS.

E. THE FEDERAL PRISON INDUSTRIES' ARGUMENT IS: FPI NEEDS TO KEEP CONVICTS WORKING TO KEEP THEM OUT OF TROUBLE IN PRISON--(AND HERE I THOUGHT THAT WAS THE DUTY OF THE PRISON GUARDS.) I ASK YOU, DO ANY OF THESE FACTORS JUSTIFY STEALING

JOBS FROM LAW-ABIDING, TAXPAYING CITIZENS AND THEN GIVE THOSE SAME JOBS TO CRIMINALS? IF SO, THEN WE MAY ALSO HAVE TO PAY THE WELFARE COSTS FOR THAT DISENFRANCHISED WORKER AND HIS FAMILY AS WELL.

F. THEIR ARGUMENT IS: FEDERAL PRISON INDUSTRIES CREATES JOBS AND GIVES THEM TO CONVICTS. ANOTHER DEFINITION ~~TO~~ CREATING IS THE MAKING OF SOMETHING THAT DID NOT EXIST. CAN I SUGGEST THAT THE PROPER TERM IN THIS CASE IS STEAL: WHICH IS THE TAKING OF SOMETHING THAT IS NOT YOURS BY FORCE OR OTHERWISE. IT SEEMS TO ME THAT FEDERAL PRISON INDUSTRY ~~S~~ STEALS JOBS FROM THE LAW-ABIDING TO GIVE TO THE LAW BREAKER. IN ESSENCE, FEDERAL PRISON INDUSTRIES MUGS SMALL BUSINESS PEOPLE AND GOVERNMENT PURCHASING OFFICES USING THE MANDATORY CLAUSE AND CONTROLLED WAIVER SYSTEM AS ~~X~~ WEAPONS. A LARGE NUMBER OF GOVERNMENT EMPLOYEES ARE SO INTIMIDATED BY REPRESENTATIVES OF FPI THAT THEY FEAR FOR THEIR JOBS SHOULD THEY DO NOT GIVE IN TO THE THREATS.

GIVEN THESE FACTS, FEDERAL PRISON INDUSTRIES IS PLAYING ON THE TOP SIDE OF A SLANTED PLAYING FIELD. GIVE THE HARD-WORKING, TAX PAYING, AMERICAN CITIZEN A HALF WAY CHANCE BY REMOVING THE MANDATORY CLAUSES AND WAIVER SYSTEM FROM THE FEDERAL ACQUISITION RULES.

THANK YOU FOR YOUR TIME AND I APOLOGIZE FOR SHOWING MY EMOTION, BUT IT IS TOO DEEP-SEEDED TO COVER.

RAE

Office ORGANIZERS *Inc.*



Federal Prison Industries
320 First Street, N.W.
Washington D.C. 20534

April 20, 1994
Attn:
Ira B. Kirchbaum
General Counsel

Dear Mr. Kirchbaum,

As per our telecon of several days ago, I am forwarding you the information you requested along with my observation. I have given this considerable thought and decided to also write a letter to Mr. Schwab (copy enclosed).

It is my feeling that your toner cartridge program was misrepresented to McClellan AFB in several different ways: (1) your recycled cartridges have 30% more print pages than other OEM cartridges (see paragraphs 1 and 6)--it is common knowledge throughout the industry that no remanufactured cartridges can guarantee more print pages than all other OEM cartridges; (2) you refer to your local customer sales service representative, Mr. Grinolds...could it be that Mr. Grinolds, who has his own cartridge recycling company and as such was privy to information gathered at a competitor's meeting, became a UNICOR rep when he realized Office Organizers was going to get McClellan's business because of a superior product; (3) personnel at McClellan were given copies of an independent lab report which indicated UNICOR's conformance with a federal law--UNICOR toner cartridges, to the best of my knowledge, had never been tested as McClellan was told; I am sure you would not tolerate this bogus report.

I am depending on Mr. Schwab's and your integrity in dealing with this matter. Please contact me soon, as I must determine if I need pursue this matter any further.

Sincerely,
Roger A. English
Roger A. English
Sales Manager

RAE:jle
Encl. 2 letters,

Office **ORGANIZERS** *Inc.*

April 20, 1994

UNICOR
320 First Street N.W.
Washington, D.C. 20534

Attn: Steve Schwab

Dear Mr. Schwab,

Having heard your opinions personally and through various people, I know that you feel UNICOR should not threaten government contracting people in an effort to get business. I tried to contact you but was unsuccessful because of your busy schedule. Finally, I was referred to Ira B. Kirschbaum and he suggested that I write him about my concerns. Enclosed is that letter and one sent by John Conlan to McClellan AFB, which has misrepresentations; as you see in paragraph four, there is the very threat which you abhor.

Mr. Grinolds (referred to as your representative) attended a meeting as a local representative for a competitor to Office Organizers and therefore, was able to gain information by what we presume to be unethical.

Office Organizers, a small business run by a disabled veteran, had been working with McClellan to set up their recycling of imaging supplies for well over a year, and within the last few months all parties involved had decided to go ahead with Office Organizers. It was following this decision that Mr. Grinolds suddenly became your representative, and McClellan was contacted by UNICOR Toner Cartridge Center.

I do believe you will agree that Federal Prison Industries purpose should not include taking business from disabled veteran-owned, small businesses.

Sincerely,

RAE:jle

Encls.

2 letters

Roger A. English

Roger A. English, Sales Mgr.

Disabled Vietnam Veteran Owned and Operated - Small Business

511 West Wrightwood • Elmhurst, Illinois 60126 • 708/782-5600 • FAX: 708/782-5606



Office **ORGANIZERS** *Inc.*

June 16, 1994

Honorable Henry Hyde
50 E. Oak St.
Addison, IL. 60101

Attn: Patrick J. Durante
6th District of Illinois

Dear Mr. Durante:

We would like to thank Congressman Hyde and yourself for the time you gave to us in our meeting of May 27, 1994.

Listed below is a short recap of our conversation regarding the unfair false representations of UNICOR Federal Prison Industries in obtaining business.

- A) Office Organizers Inc. has been developing and selling a total remanufacturing recycling program on a GSA schedule for four years.
- B) Our representatives have been working at Mc Clellan AFB on this program for over two years.
- C) Unicor entered this picture at the last moment and demanded that Mc Clellan AFB give the purchase order to them.
- D) UNICOR stated that they had a representative named Vic Grinolds. Subsequently it has been learned that no one at UNICOR headquarters had heard of this man. He actually works for our competition.
- E) UNICOR stated that their product was highly superior. The UNICOR general counsel later reversed that statement.
- F) UNICOR admits to contracting out part of the work instead of doing it in the prisons.
- G) Mr. Conlan also states that the law mandates collection of empty cartridges and purchase from UNICOR. The law does not state this.
- H) UNICOR further stated that they would not take business from a disabled Vietnam Veteran owned business; in reality they are doing exactly this.

It seems incredible that UNICOR a multi-billion dollar organization has been taking business away from tax paying small businessmen and giving the work to convicts. This is done only because UNICOR uses the power of federal law to threaten contracting personnel. They also operate under the guise of saving money in doing quality work with little investigation.

. . . continued

Office **ORGANIZERS** *Inc.*

You will discover that UNICOR's delivery is slower, their prices are higher and their quality is inferior to open market competition. If indeed their quality is as good, their prices are lower and their delivery is fast, they should have no need to have their products purchased under mandate. They should be able to compete for sales in an open market given the fact that they pay low taxes, pay their labor as low as 28¢ per hour; and they have an unlimited labor pool.

While as I have stated it is incredible that small businesses and citizens are being devastated by UNICOR's unfair advantage; it is horrendous that they should be stealing business from a disabled Vietnam Veteran who has put his heart and soul as well as all his finances into his business.

Congressman Hyde, do we owe convicted murderers, rapists and other convicted felons jobs taken from honest, law abiding citizens who have given their very bodies to their country?

Give one job to a convict and you have taken one job from a law abiding citizen.

Respectfully yours,



Roger English
Sales Manager

RE:jmr

Enclosures

Fleet & Industrial Supply Center
937 N. Harbor Dr.
San Diego, Ca. 92132
Attn: Linda Odle
Subject: Request 94108-SMHR

Dear Ms. Odle,

5/19/94

I was informed today that UNICOR (F.P.I.) was given additional time after the close of the bid time to submit their bid.

If UNICOR (F.P.I.) can perform all of the services needed to remanufacture laser toner cartridge and remanufactured printer ribbons why do they need more time to submit their bid.

We are on G.S.A. schedule, and a disabled Vietnam veteran owned and operated small business with a tested product at your facility. We also submitted our bid and specifications in the proper time limit requested by contracting.

We intend to protest any award given to UNICOR (F.P.I.) on the basis of favored terms given to them and the fact that their product has not been tested to meet the specifications required.

Copies of this letter are being sent registered mail and by fax.

Sincerely,

Thomas Schultz

SEND:			
Company:	ADM, INTERNATIONAL	From:	ROSE
Attention:	ROG ENGLISH	Date:	6/24/96
Fax Number:	1-800-454-2066	Phone Number:	1-800-621-2818

Total pages to follow: 0
Call 707-942-5530 if you do not receive all pages

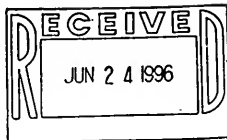
DEAR ROG

AFTER SPEAKING WITH YOU ABOUT YOUR CONGRESSIONAL HEARING THIS COMING THURSDAY REGARDING THE UNCOR SITUATION AND GIVING SOME THOUGHT TO THE MATTER ON HOW WE HAVE BEEN AFFECTED BY THEM... THE FOREMOST RIP-OFF WAS THE OFFICE ORGANIZER FIASCO...

THE TIME SPENT WITH EDUCATING THE CUSTOMER, THE TRIPS THAT TOM
TOOK AND THE FACT THAT BECAUSE A COMPETITOR WHO HAD AN IDEA
HE COULDN'T GET THE AWARD WENT TO UNICOR ABOUT THE BASE AND
AND JOINED FORCES WITH THEM AND USED THE MANDATORY THREAT... IN FACT
IT WAS SO DEVISIVE THAT THEY APPROACHED THE BASE WITH OUR DIALOG
VERBATIM. WHAT MAKES THIS PARTICULAR ROBBERY SO DISGUSTING IS THAT
THEY TOOK THE JOB AWAY FROM A DISABLE VIETNAM VET... PERSONALLY
WE KNOW HOW DEVASTATING THAT LOSS WAS.

FPI LAST YEAR WENT ON RECORD WITH BEALE AFB THAT EVERYTHING BOUGHT ON BASE WAS TO COME TO THEM...THIS PARTICULAR SITUATION WAS HAS BEEN CHALLENGED BY ONE OF OUR COMPETITORS...SOURCE UNKNOWN...OFFICE FURNITURE/ DORM FURNITURE/ MATTRESSES

AND OF COURSE EVERY SINGLE MATTRESS PROPOSAL THAT WE HAVE EVER HAD OUT.





U.S. Department of Justice

UNICOR

Federal Prison Industries, Inc.

Toner Cartridge Center
 480 Spring Park Place, Suite 1000
 Herndon, Virginia 22070-5227
 800 61-UNICOR • 703-318-1878 • Fax: 703-318-0507

Ms. Misty Courts, Purchasing
 SMAIL/MPM-1
 5050 Dulleys Street, Suite #3
 McEllan Air Force Base, CA 93652-1369

Dear Ms. Courts,

Post-It™ brand fax transmittal memo 7671		# of pages »
To: <i>Reginal English</i>	From: <i>Judi</i>	
Co.:	Co.:	
Dept.:	Phone #	
Fax #	Fax #	

March 31, 1994

**Re: Request for Purchase of 150
 Remanufactured Toner Cartridges**

I am replying to your call to our sales representative Vic Grinolds that you wished to place an immediate order for 150 EP-S Toner Cartridges to be shipped from our stock to arrive at McEllan no later than April 15.

This is to confirm that we are able to meet your need. We can ship from our factory Monday April 4, or 5th to meet your time frame needs, if you will FAX us (at 703-318-0507) a Purchase Order for 150 EP-S Toner Cartridges. Our over 100 quantity price is \$49 each. These cartridges are top quality, have the new Long Life drums giving superior text and graphics quality and some 30% more print pages than other OEM cartridges.

This purchase is not only a wise decision for cutting supply costs in these days of financial tightness, but you are following Presidential Executive Order No. 12873 "Federal Acquisition, Recycling and Waste Prevention", issued October 20, 1993. That order requires all agencies to collect recyclable waste such as toner cartridges and to purchase recyclable-remanufactured products like laser printer and facsimile machine toner cartridges.

Title 18 U.S. Code, Sec. 2124 and Federal Acquisition Regulation Sec. 8.602(a), as you know, directs agency purchasing personnel to buy their products from Federal Prison Industries/UNICOR rather than any commercial firm, if FPI is supplying such products.

We are pleased to inform you that UNICOR is now remanufacturing a wide range of laser printer, fax and copier cartridges of the highest quality at our new manufacturing plant. We can also provide you the assistance of our local customer sales-service rep Mr. Grinolds and through our nationwide sales and customer service office above, an easy to implement empty cartridge collection and return shipment program instructions for each office, and empty cartridge collection boxes for easy shipping to our factory - all included free in our Purchase Contract with you. We provide this "turn-key" program to make it easy for procurement people like your office to put a complete cost reduction program in operation - without hardly any effort or extra expense or staff time. We help you do it!

I will be happy to talk with you or Contract Officer Victoria Wallace, M/Sgt. Moreno, or whoever, to explain how we will implement this for you and save you all the difficult work of trying to do a commercial procurement contract on this complex product line. For every empty OEM cartridge you collect and return to us, we credit your account \$5. For every UNICOR made cartridge you return, we credit your account \$10. This, in effect, reduces your cost for each superb quality cartridge to \$39 each, and with the 30% more print pages per cartridge, your real net cost will average some \$30 versus the high cost of new cartridges you currently purchase. This mandatory collection of empties and purchase of remanufactured cartridges from UNICOR will give you an excellent cost reduction program under the law.

Most sincerely,

John Conlen
 John Conlen
 Marketing Director

cc: Sr. M/Sgt. Moreno
 652nd CGSW
 1961 Idzard Street
 McEllan AFB CA 93652

APR 8 1994



U.S. Department of Justice

UNICOR

Federal Prison Industries, Inc.

Washington, DC 20534

May 5, 1994

Roger A. English, Sales Manager
Office Organizers, Inc.
511 West Wrightwood
Elmhurst, Illinois 60126

Dear Mr. English:

Thank you for your recent letters regarding our remanufactured laser cartridge program. We are in receipt of two letters to myself and Mr. Schwalb. Mr. Schwalb has asked that I respond to you regarding the issues raised in both of your letters. You have raised several points of concern, and I will attempt to address each one in turn.

*Not
true
last
paragraph*
*not
mandatory* First, in your letter to Mr. Schwalb, you indicated that UNICOR/FPI should not threaten government contracting people in an effort to obtain business. We absolutely concur with this statement, and do not advocate under any circumstances attempts to pressure customers to buy from UNICOR against their will. We do, however, believe that if we can provide a product that meets customer requirements for quality and delivery and is competitively priced, that we should make every effort to get that information out to our existing and prospective customers. While we do try to remind customers that FPI is an authorized source from which they can easily procure, we have tried to sell our product based on its merits.

*no
competitive
bid* In your letter, you referred to a gentleman, Mr. Grinolds, as representing FPI locally. You may be aware that as part of FPI's Board-approved decision to go into laser cartridges, we determined that the best way for us to enter this industry and insure the highest levels of quality was to work closely with the private sector. Subsequently we contracted, via competitive bid, with a private firm to assist us in all aspects of this product line. Part of this contract includes marketing and sales support to help generate business for us.

*including actual work
supposed to give work
to prisoners not private
business*

lit

As far as the issue of whether UNICOR remanufactured laser cartridges have received independent test lab certification, they have not. Our contractor, CTN, has received certification, and the UNICOR cartridges are being remanufactured to the same high level of specification required for certification. If this created any misunderstanding in the customer's mind as a result, we will follow up to insure the facts are fully presented.

told by General

You also mentioned the question of page count that was referred to in Mr. Conlan's letter. I agree that we should be cautious in making such statements. This assertion was made by a customer, indicating that the EPS cartridges supplied meeting the CTN specifications were generating 30 percent more pages than other cartridges they had used. Nonetheless your point is well taken, and I will advise caution against making generalizations that may not be applicable to all cartridges or all other sources of supply.

taking jobs from small business

While FPI does try to be sensitive to the concerns of private business and industry, as you may know, we are under severe pressures to grow and create new inmate jobs as a result of the tremendous influx of inmates entering the Federal Prison system. The Bureau of Prisons inmate population, which has more than doubled during the 1980's, is projected to grow from its present level of 84,000+ to nearly 120,000 by the year 2000. Inmate work to reduce idleness is becoming ever more critical in increasingly overcrowded correctional facilities in order to maintain security and safety for the staff employed at these facilities as well as the general public.

no industry small business will agree

As a point of information, the decision to remanufacture laser toner cartridges was based, in part, because it is a growing federal market. Due to the growing number of laser printers in use in the federal government, but also because of increasing emphasis being placed on reutilization and recycling, acceptance of remanufactured cartridges has grown rapidly. We believe FPI's entry in this area will give this product added visibility in the federal sector which will help the industry as a whole. *and FPI protect the quality*

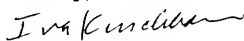
but they are!

As I am sure you recognize, it is not our desire nor intent to take business away from disabled, veteran-owned, small business. As you know, in accordance with our statutory obligations and the desires of our Presidentially-appointed Board of Directors, we make every effort to be sensitive to the concerns of small business and balance our own need to grow in light of those concerns. If, indeed, our marketing efforts resulted in your firm losing existing business, please advise me of this.

We do appreciate your concerns and the issues you have raised, and give our firm commitment to make every effort to be sensitive to these areas as we continue our future marketing efforts. It is not always an easy task to balance our mission and goals with those of the industry, but we will continue to strive to do so.

I hope that this information, at least in part, is able to answer some of your concerns. While fulfilling our mission of employing and training inmates is of high importance, the responsibility to achieve those goals with minimal impact on the private sector is one which Mr. Schwalb takes very seriously.

Sincerely,

A handwritten signature in dark ink, appearing to read "Ira Kirschbaum", with a stylized flourish at the end.

Ira Kirschbaum
General Counsel



**BIFMA INTERNATIONAL STATEMENT
SUPPORTING ELIMINATION OF
FEDERAL PRISON INDUSTRY'S
MANDATORY SOURCE STATUS**

FOR

THE HOUSE SMALL BUSINESS COMMITTEE

ON

JUNE 27, 1996

BIFMA International is a non-profit trade association consisting of over 200 manufacturers of business, office and institutional furniture and their suppliers. BIFMA was established in 1973 as the Business and Institutional Furniture Manufacturer's Association to address issues of common concern to the contract furnishings industry.

The office furniture industry has recently experienced an expansion by Federal Prison Industries, Inc. (FPI), also known as UNICOR, in one product area and faces proposals for expansion in two more product areas. Last year's White House Conference on Small Business ranked unfair competition from government entities as a major concern and we believe FPI's operations contain perfect examples of this unfairness.

Inmates at federal prison factories make approximately 85 different products for FPI. All federal agencies must treat FPI as a "mandatory source" of supplies and are not allowed to seek less expensive or better quality items from the private sector unless a waiver is granted. FPI receives the waiver request and FPI renders the decision without any additional oversight. Federal agencies that are denied waivers must pay whatever price FPI sets and businesses are never given an opportunity to offer their products.

Our experience with the recent expansion process that FPI has initiated also illustrates unfair competition. FPI studies the market for a particular product and seeks approval from the FPI Board of Directors for an expansion. There appears to be very little that can be done to prevent an expansion since the federal

market for various goods is almost always smaller than the whole commercial market. The recommendation usually ends up being that there would be a "minimal impact on the private sector" if FPI were to take more of the federal market. It amounts to FPI telling every industry that the federal market is theirs because other companies can go out and be successful in the commercial market.

Once FPI decides to enter a new industry or produce a new product, there is no consistent treatment for that industry or certainty that the product market share will remain the same. Despite Congressional direction that FPI not unduly burden one industry more than another, FPI looks the other way. They may produce 15% of the government's purchases of one product and 90% of another. Five percent of what FPI makes may be in one industry while thirty percent of their output may be completely within another industry.

Legislation is needed to remove FPI's mandatory source status and create a competitive environment for federal customers. BIFMA has joined other trade associations and concerned companies in the Competition in Contracting Act Coalition. We support implementation of the National Performance Review recommendation which states that our government should "Take away the Federal Prison Industries' status as a mandatory source of federal supplies and require it to compete commercially for federal agencies' business." Such a change would help move us toward a government that works better, costs less, and deals fairly with businesses throughout the country.



to support the goals and objectives of State and Federal Prison Industries, its employees, inmate workers and the vendors who supply to them."

STATEMENT OF KATHLEEN A. LEONARD
PRESIDENT
STATE/FEDERAL CORRECTIONAL VENDORS' ASSOCIATION
BEFORE THE HOUSE SMALL BUSINESS COMMITTEE
JUNE 27, 1996

President
Kath Leonard
Vice President
Craig Schneider
Secretary
Thomas J. Stanton

I appreciate the opportunity to submit this Statement as President of the State/Federal Correctional Vendors' Association. My submission is important to the Members of this Committee as I believe you should know the concerns of the thousands of businesses (many of them small businesses) who benefit and supply goods and services to the Federal Prison Industries' (FPI) programs throughout the country.

I am certain all of the Members of this Committee either personally know or can empathize with just how difficult it is for businesses, particularly small ones, to survive. The failure rate in their first few years is daunting.

In fiscal year 1995, there were some 14,000 vendors nationwide registered with FPI who did over \$250 million in sales and who had thousands of employees and families dependent on these sales to FPI. Some 60,000 individual contracts were awarded to these same businesses. The curtailment of the FPI program as implied by this proposed legislation would indeed adversely impact these thousands of FPI vendors, many of them small businesses, throughout the nation who rely on FPI for some portion of their business.

While the numbers may not be overwhelming for people who refer to the budget every day in terms of billions and trillions of dollars, it is important for those individual businesses who may rely in whole or in part on the FPI programs. The legislation proposed would potentially put FPI out of business which in turn would mean lay-offs for these companies or even the difference between survival and shutdown.

Bearing these facts in mind, I ask you Madame Chairman and all of the Members of the Committee to consider that in addition to the devastating impact the elimination of this vital correctional program would have on our federal prison system, already facing spiraling inmate populations, potential budgetary construction cut-backs, mandatory sentencing, and the like, there are real people, real dollars and real businesses that also would be severely impacted by any curtailment of the FPI programs.

Finally, while there are other business groups which appear to oppose FPI, all agree that there must be a program such as FPI. They simply don't want FPI to make products made by their industry. The fact is that if FPI were eliminated, the net affect on private sector jobs would be a negative (see attached). This is particularly true in the business and furniture industry which is non-union and highly automated.

I sincerely appreciate this opportunity to submit facts which I believe play a major role in understanding the significance of the FPI program to all businesses, large and small, throughout the country, and in addition, to support our federal prison system which relies so heavily on this proven and critical correctional program.

ATTACHMENT
STMT OF KATHLEEN A. LEONARD

.

ADDRESSING THE
EFFECT OF FEDERAL PRISON INDUSTRIES
ON
THE PRIVATE SECTOR IN GENERAL
AND
THE FURNITURE INDUSTRY SPECIFICALLY

Prepared by Federal Prison Industries
March 1996

INTRODUCTION

The December 1995 issue of Furniture Design and Manufacturing magazine contained an article about Federal Prison Industries (FPI) and the impact of an FPI proposal to expand its production of systems furniture. FPI believes that the information provided to the author to prepare that article was inaccurate, and unfairly portrayed FPI's overall impact on the private sector, as well as the specific effect FPI has on the furniture industry.

This paper provides data in support of three propositions which refute key furniture industry assertions:

- 1) Overall, FPI's impact is positive, not negative;
- 2) FPI's effect on the furniture industry has been greatly exaggerated and misrepresented; and
- 3) FPI creates more civilian jobs in systems furniture than it displaces.

BACKGROUND

Federal Prison Industries is a wholly-owned Government corporation created by statute in 1934. The enabling statute, as amended, requires that:

- FPI employ the greatest number of inmates practicable in the production of goods and services for sale exclusively to the Federal Government;
- Production be diversified as much as possible so as to minimize the impact on any single industry, and that FPI not produce more than a reasonable share of the Federal market;
- FPI operate in a self-sufficient manner, receiving no appropriated funds for its operations;
- FPI be governed by a Presidentially-appointed Board of Directors, which must approve significant expansion in the production of existing products; and
- Federal agencies buy FPI products provided the price, delivery and quality expectations of the customer are met.

FPI is a component within the Federal Bureau of Prisons, Department of Justice. FPI is responsible for creating job opportunities for approximately 25% of the sentenced Federal

inmate population. FPI's growth is driven exclusively by growth in the Federal inmate population which, in turn, is driven by public policy initiatives in law enforcement, prosecution and criminal sentencing. For decades, the Congress and Administration have been fully aware that increases in the Federal inmate population require both additional funding for the construction and operation of prisons, and the creation of more inmate jobs in FPI.

In order to create the necessary additional inmate jobs in several new prisons in Florida, FPI management proposed in mid-1995 that the Board of Directors approve an expansion in the production of systems furniture. The furniture industry was invited to respond to the Board about the impact of the proposed expansion. The furniture industry response to the Board, which also was used to develop information that was distributed to certain Congressional members and the media, prompted the development of this paper.

Proposition #1: FPI's Overall Impact is Positive, Not Negative

It is a common misconception that FPI has an overall adverse impact on the private sector. This perception, while intuitively appealing, is not supported by the facts. As outlined below, FPI has a very positive impact in a variety of areas.

- **FPI Returns Every Cent of Its Sales to the Private Sector.**

FPI's detractors use total FPI sales as a measure of adverse impact -- a fundamentally flawed approach which results in gross factual distortions.

As with any manufacturer, there are a variety of cost components associated with FPI's sales. In 1995, each dollar FPI received was spent as follows:

Raw Materials	56 cents
Staff Salaries	19 cents
Equipment, Services and Overhead	17 cents
Inmate Pay	7 cents
Activation of New Factories	<u>1 cent</u>
	\$1.00

Every cent is returned to the private sector. The raw materials, equipment and services are all procured from private sector vendors. In fact, numerous small businesses count on FPI as a customer for their livelihood. Staff salaries are spent in the local communities, creating private sector jobs for law-abiding citizens.

The funds paid to FPI's 17,000 inmate workers are used to pay court ordered fines, victim restitution, cost of incarceration fees, child support, and alimony. Inmates in FPI are required to pay 50% of their earnings toward these obligations in order to keep their jobs. These payments also serve to reduce public assistance costs. Inmates also use some of their funds to purchase personal hygiene and convenience items from Bureau of Prisons commissaries. These commissaries are self-supporting and all items sold to inmates are purchased directly from local businesses. Not only does this create local jobs, but requiring inmates to purchase these items reduces the overall cost to the taxpayers of operating Federal prisons.

The return of FPI's sales dollars to the private sector -- and FPI manufacturing itself -- generate civilian jobs for law-abiding citizens. While the furniture industry would have the public believe that without FPI there would be even more civilian jobs, reality refutes that assertion.

As a rule, the more individual businesses there are in a particular industry, the more jobs there will be, in the aggregate; as a corollary, when the number of businesses in an industry declines, the number of jobs normally will too. This economic phenomenon is generally applicable to the markets in which FPI competes, even if all the inmate workers are removed from consideration and only civilian jobs are compared. As a result, FPI's presence in many industries actually serves to resist the loss of civilian jobs in the industry as a whole.

Likewise, FPI's suppliers of raw materials and components actually would lose business if FPI left the market. If FPI's sales were absorbed by the private sector, suppliers to the remaining manufacturers likely would see an increase in business -- not the companies currently supplying FPI. This would be due to a variety of economic and geographic considerations. Also, because of economies of scale, and the way the principle of marginal costs operates, the number of additional jobs created among suppliers for existing manufacturers would be fewer than the number of jobs lost among suppliers to FPI. Again, the net impact on civilian jobs of eliminating FPI from the equation would be negative.

**FPI Contributes to the Safe, Cost-Efficient
Operation of Federal Prisons.**

All medically capable sentenced Federal inmates are required to work. Most inmate jobs involve the operation and maintenance of the prison, with approximately 25% of the inmates assigned to FPI jobs. The Bureau of Prisons regards FPI as its most important correctional program. FPI's work program instills the basic work ethic and constructively occupies an inmate's time; these factors contribute to the safe and orderly operation of a

prison. A safe, well-managed prison is not only a better place for staff to work and inmates to live, it is also a better neighbor. Numerous mayors and other local officials have publicly acknowledged that a Bureau of Prisons facility in their community not only contributes to the local economy and job base, but also enhances the public's perception of safety.

FPI does not receive appropriated funds for its operations. It pays its expenses from sales to its Federal customers -- purchases these agencies would make in any case. If FPI were not self-sufficient, Congress would need to increase the Bureau of Prisons' appropriation by several hundred million dollars annually. Thus, FPI lowers the cost of operating Federal prisons and thereby reduces the burden on American taxpayers.

• **FPI Reduces Crime and Enhances Public Safety.**

An extensive longitudinal research study has been conducted on the effects of FPI employment on an inmate's prospects for success upon release. The study, which tracked several thousand inmates for as long as 12 years after release concluded that inmates who worked in FPI while incarcerated were substantially more likely to find and retain employment, earn higher wages and remain crime free than inmates who did not work in FPI. While difficult to quantify precisely, the societal advantages of former inmates becoming taxpaying workers and not returning to a life of crime are both obvious and significant.

• **Summary**

Taking into consideration the collective impact of the dollars spent in procurements from the private sector, the number of civilian jobs created, the improved management of Federal prisons, the increase in public safety, the reduced burden on taxpayers and the reduction in crime, it is clear that FPI's overall effect is a very positive one. It is a program which is ultimately fulfilling the expectations of the American public and their elected representatives.

Proposition #2: FPI's Effect on the Furniture Industry Has Been Greatly Exaggerated and Misrepresented

The most significant area of exaggeration regarding FPI's impact on the furniture industry relates to estimations of FPI's impact on private sector jobs. The proposed FPI expansion in systems furniture would provide jobs at new correctional facilities for 44 civilian staff and 595 inmates. During the hearing on the proposed expansion, however, the Board of Directors was told by industry officials that such growth by FPI would cause the loss of 1,429 private sector jobs over the five years covered by the proposal (1996-2000).

The obvious question is, how is it that the private sector, which should be much more efficient than FPI, would have to displace more than twice as many workers as FPI would hire (most of whom are inmate workers), to generate the same level of sales? The answer lies in a combination of flawed mathematics and an intuitively appealing (but illogical) premise. This is demonstrated below.

• The Industry Methodology Inflates the Total Sales Impact of FPI's Proposed Expansion

The industry representatives told the Board that the average output of a private sector furniture factory worker is \$171,789 per year. They derived their projection of the number of lost jobs (1,429) by dividing their asserted per capita production (\$171,789) into a total sales figure of \$245.5 million. The derivation of this latter number (\$245.5 million) represents the first flaw in the methodology employed by the industry.

Below is a comparison of two methodologies used to determine the total increase in sales from FPI's expansion proposal, and thereby derive the prospective private sector job losses.

Comparison of Job Loss Based on Total Annual Sales Increases
(dollars in millions)

	Proper Methodology			Furniture Industry Methodology	
	Proposed FPI Systems Furniture Sales (annual)	Annual Increase in Sales	Jobs "Lost"	Annual Increase in Sales	Jobs "Lost"
FY 1996	\$ 75	\$ 4.5	26	\$ 4.5	26
FY 1997	108	33.0	192	37.5	218
FY 1998	125	17.0	99	54.5	317
FY 1999	140	15.0	87	69.5	405
FY 2000	150	10.0	58	79.5	463
	TOTALS	\$ 79.5	463	\$ 245.5	1,429

Note that the industry methodology uses a "cumulative" approach to determine the annual increase in sales, which greatly exaggerates the total increase in sales (\$245.5 million vs \$79.5 million) over the five year period as well as the impact on jobs. Instead of presuming that each job would last several years (regardless of how many incumbents may come and go), they count each job as being one year in duration and count the same job in the following years as a second, third, fourth and fifth job. Had they used the proper methodology, the job impact would have been derived by dividing \$79.5 million (not \$245.5 million) by

\$171,789, yielding 463, not 1,429. Thus, the industry methodology overstates FPI's prospective impact by over 300%.

Equally disappointing is the fact that, although the FPI Board of Directors has now issued its decision and has approved a lower sales level for systems furniture than FPI management requested, in recent press releases, media articles and letters to Members of Congress, the industry continues to cite 1,429 lost jobs as the measure of impact. Using the industry's faulty methodology, the impact of the approved sales level would be 1,091 jobs, not 1,429. Using the proper methodology -- which still does not take into account all relevant factors (as will be outlined below) -- the projected loss would be 346 jobs, not 463.

- **The Industry's Analysis Fails to Acknowledge FPI Purchases from Private Sector Companies**

Using systems furniture again, of the \$70.5 million in FPI sales for FY 1995, \$51 million (72%) represents purchases from private sector furniture companies with whom FPI has competitively awarded contracts for space planning, design, material acquisition, technical assistance, and installation. These contractual relationships create private sector jobs; many more would be created by FPI's systems furniture expansion proposal. Any legitimate analysis of job impact should consider, and appropriately offset, projected job losses against the fully predictable additional private sector job growth that FPI's expansion would generate.

- **The Industry Methodology Does Not Take Into Account Growth in the Commercial Market or the Effects of Normal Business Conditions**

Sales to the Federal Government represent an average of only 3-4% of the total sales of private sector systems furniture companies. Thus, even if FPI's share of the Federal Government market were to increase, the effect on most companies would be negligible. Even the most modest growth in their private sector sales (which comprise 96-97% of their business) would more than offset any impact on their Federal sales.

Each company's systems furniture product is completely interchangeable between the Federal and private markets. Resources which might be committed to a declining Federal market can be readily re-directed to emerging private sector markets. Thus, it would be more accurate to say that, at the most, FPI's increased Federal market share might cause a re-deployment of resources and/or a slower rate of growth in creation of new private sector jobs.

When discussing job loss, the industry tends to isolate FPI as the cause. But when compared to the normal conditions which affect every industry, such as technological improvements, intra-industry competition, acquisitions, mergers, foreign competition, and routine turnovers due to attrition, the real-world impact of FPI in the displacement of employees is comparable to a rounding error -- virtually nil.

• **Summary**

The combination of methodological error and the unwillingness of the furniture industry to take into consideration offsetting job creation and commercial market activities render the industry's assertions about FPI's adverse impact illegitimate.

Proposition #3: FPI creates more civilian jobs in systems furniture than it displaces

It is common for FPI's detractors to suggest that inmates are taking civilian jobs. That is because it would inflame a law-abiding citizen -- and rightly so -- to think of losing his or her job to an inmate. All the arguments about teaching skills, preparing inmates for successful reintegration upon release, reducing recidivism, and providing for a safer and better managed prison for staff to work in, are compelling in the abstract. They are unpersuasive, however, when one's own livelihood is at risk.

If inmates were taking civilian jobs, one would expect a net increase in civilian systems furniture manufacturing jobs if FPI were to leave that market. However, as demonstrated below, even when inmates are excluded from the equation altogether, the opposite would occur.

• **FPI's Systems Furniture Production in FY 1995
Supported 475 Civilian Jobs**

FPI's FY 1995 systems furniture sales of \$70.5 million provided a number of FPI or directly-related civilian jobs as shown below:

	<u>Employees*</u>
Federal Prison Industries	
Central Office Systems Furniture Group Staff	14
Central Office Sales, Financial, Management, Procurement and Support Staff	21
Staff at 5 FPI Factories	80
Private Industry Contractor	
Factory Employees at 6 Manufacturing Sites, and Corporate and Satellite Office Staff	<u>360</u>
Total	475

(*These figures do not include trucking employees, space planning services, installation services, employees of raw material suppliers, nor any jobs associated with the "turnover" of capital in the economy.)

Thus, if FPI ceased producing systems furniture altogether, 475 directly related civilian jobs would be lost. Conventional wisdom would lead one to believe that these former Federal sales, when redirected to the private sector, would create even more jobs there. That simply is not the case, though.

• **The Private Sector Would Create Fewer Jobs
Than Currently Exist to Support FPI's
Production**

One way to determine the number of new jobs which would be created if FPI's Fiscal Year 1995 sales of \$70.5 million were transferred to the private sector would be to divide these sales by the industry's per capita production figure of \$171,789. The result is 410 jobs, or 65 less jobs than FPI supported with the same level of sales.

This approach, however, still grossly overstates the number of new jobs which would be created if FPI stopped producing systems furniture. The reason is the principle of marginal costs (or, in the alternate, marginal profits). This is not so much a sophisticated business principle as it is common sense. Which passenger is the most profitable for an airline? Which guest costs the hotel the least to accommodate? Which part of a manufacturing company's production is the most profitable? The

answer to all questions is: the last. This is just as true for private sector furniture manufacturers.

Recent reports in furniture industry publications indicate that private sector systems furniture manufacturers were operating at an average of 74% of their capacity in FY 94. If this is so, then additional production could be accomplished without significant costs for plant expansion, equipment purchases, or even very many additional employees. This would be particularly true for large furniture manufacturers, several of which dominate the systems furniture industry. To better gauge the issue of marginal costs -- which has a strong relationship to additional job creation -- requires examining how FPI's current sales in systems furniture would likely be distributed to the private sector.

• Most of the Diverted Sales Would Go to a Few Big Companies

It seems sensible to presume that the \$70.5 million in re-directed FPI sales would end up being distributed among the private sector companies in approximately the same ratio as the current non-FPI Government purchases of systems furniture. The latest procurement data available from the Government on sales to Federal agencies is for FY 1994. The data indicates that, of the non-FPI furniture sales to the Federal Government, 56% came from 4 companies. The remaining 44% was distributed among 52 other companies, 17 of whom are dealers and sell furniture manufactured by other companies. (Of these 52 companies, 4 sold 4-5% each of the sales; 1 sold 3-4% each; 2 sold 2-3% each; 5 sold 1-2 % each; 9 sold 0.5-1% each; 6 had 0.25-0.5% each; and 25 sold less than 0.25% each.)

If FPI's sales of \$70.5 million were distributed to the private sector, the four biggest companies would obviously receive the majority. The estimated amount of additional sales each would receive and the relationship to their other sales is reflected in the chart below. (Sales dollars are in millions.)

Company

	Hayworth	H. Miller	Knoll	Steelcase
Total Sales (1994)	\$ 1,000	\$ 953	\$ 510	\$ 2,400
Percent of sales to Federal Govt. (1994)	2.3%	3.5%	5.9%	0.7%
Percent of non-FPI Federal market share in systems furniture	13%	18%	16%	9%
Potential additional sales out of FPI's \$70.5 million	\$ 9.1	\$ 12.6	\$ 11.2	\$ 6.3
Resultant increase in company's total sales	0.9%	1.3%	2.2%	0.3%

As indicated earlier, it is difficult to precisely determine how many jobs might be added in order to absorb increased sales if FPI were not in the systems furniture market. That number would vary from company to company, depending mostly on current utilization of capacity, marginal costs to absorb the added sales, etc. Using the earlier example, if the airline, hotel or manufacturer had under-utilized capacity (empty seats, vacant rooms, or under-utilized equipment), how many additional people would they hire to absorb the additional business? Probably none, maybe a few. In any case, the number would clearly be minuscule.

By way of comparison, if FPI were contemplating an increase in production in a particular product line of 2% or less, it is highly unlikely that consideration would be given to opening a new factory, buying more equipment, or hiring additional staff. Rather the strategy would be to maximize the capacity of the existing factories and maybe work a few additional temporary shifts or hours of overtime. This is virtually the identical strategy the private sector would employ.

• **A Real Situation With a Respected Company
Illustrates the Veracity of this Proposition**

According to a recent newspaper account, Herman Miller Inc. was awarded a \$125 million systems furniture contract with the Social Security Administration, to be delivered over 4 years. The article quoted company officials that this was the biggest order in the company's history and was 10 times the size of any other Government contract the company had received. Since the value of this one order over 4 years is far more than the growth FPI requested over 5 years, one might expect that many additional jobs would result.

Using the furniture industry methodology applied to FPI, one could estimate the number of additional factory jobs Herman Miller would create by dividing the average annual sales of \$31.25 million by the per capita production of \$171,789. This results in an estimate of 182 new factory jobs. In fact, though, due to the effect of marginal cost principles, it is very unlikely that the actual number of factory staff hired will begin to approach this number.

Herman Miller is a highly respected company with an excellent reputation for quality, efficiency and cost control. This well deserved reputation was not attained by accident. They know how to control personnel costs and how to maximize the benefits from the marginal cost principle. In fact, when interviewed, the company Chairman said he was not sure whether they would add any employees in order to fulfill the Social Security Administration project.

• **Small Companies in the Systems Furniture
Industry are Often More Concerned About
Competition From Big Companies than FPI's
Presence.**

To be sure, there are numerous small companies in this industry. FPI staff's private conversations with some of them, however, reveal that they are much more concerned about the effect competition from the big companies is having on their survival than the presence of FPI. They indicated, in fact, that since FPI concentrates its systems sales efforts on larger projects, if FPI were to discontinue systems furniture production, the share of those sales would likely be distributed to the larger companies at an even more disproportionate rate than currently is the case.

CONCLUSION

The intent of this paper is to address a variety of widely held but unsupported misconceptions about Federal Prison Industries and its effect on the private sector. Although some will no doubt dispute certain parts of the document, FPI believes that a compelling case can be, and has been, made that FPI has a positive effect on the private sector economy and that assertions to the contrary rely on flawed logic, faulty methodology, flagrant misrepresentations, and an inflammatory and disingenuous appeal to the general public's misconceptions and emotions.

Statement of Michael Grotefend
President
Washington Central Office Local 3546
2552 Windy Oak Court, Crofton, MD 21114
June 27, 1996
Before the House Small Business Committee

Chairman Meyers, Ranking Minority Member LaFalce and Members of the Committee. I am Michael Grotefend. As President of the Washington Central Office Local 3546 and Past President of the Council of Prison Locals, AFGC, AFL-CIO, it is my job to represent the interests of approximately 700 working men and women who every day serve their country and their fellow citizens by insuring that those persons whom society believes need to be separated from the rest of us, are maintained in our penal institutions in a manner consistent with our laws and our Constitution.

I currently am retired and living in Crofton, Maryland. However, for 23 years I worked as a line officer for UNICOR having been assigned to the Oxford, Wisconsin Federal Correctional Institution. In this capacity, I have worked directly with inmates assigned to the Federal Prison Industries factory at Oxford.

I appreciate very much this opportunity to discuss briefly with you the position of the BOP employees with respect to the Federal Prison Industries program.

My first and foremost concern is for the health and safety of our prison workers, which I believe is also the obligation of the Attorney General and the Congress. I will tell you without fear of contradiction that without FPI, our prisons would be unmanageable. The resulting mayhem that occurs in prison riots always and I emphasize the word always results in the death or injury, and sometimes both, of prison workers. We are the object of the rage that becomes pent up in prisoners who have nothing to do and nowhere to go.

The costs of such riots is simply unacceptable to all of us as taxpayers and could only result in Federal Judges taking over the prisons as they have done in some approximately 45 instances at the state and local levels.

FPI brings an important component to our criminal justice system, that is the potential for rehabilitation and thus a reduction in recidivism. For years we have known that the persons most likely to commit crimes are those who have been in the criminal justice system before. The challenge has been to find ways to alter their behavior. FPI does just that and with greater results than any other program available. The fact is that FPI reduces crime.

Mr. Steve Schwalb has provided you with all of the statistics relating to the Bureau and FPI, so I will not burden you further with those facts. Rather, let me turn briefly to those who oppose FPI and seek to destroy it. I put them in two groups. Small businesses who have a legitimate concern that they should be able to share some of the business generated by federal agencies and a few very large furniture manufacturers who have most of the market share already and simply want more.

FPI has an aggressive program for dealing with small business. The appointment of an Ombudsman whose main function is to hear and act on the problems of small business is an important step taken by FPI to insure that those small businesses who are disadvantaged by FPI have a place to go for the resolution of their complaints and concerns.

It is also important for us to remember, however, that there are also 14,000 businesses who sell their products, employ their workers who support their families, by selling to FPI and the Bureau who would be disadvantaged and treated unfairly if FPI were to be put out of business. When it comes to fairness and equal treatment these 14,000 businesses and their employees must also be considered.

Also, there are approximately 3000 Bureau of Prison employees who work in the FPI program. If the program is abolished or otherwise debilitated and put out of business these 3000 people, their families and a \$50,000,000 annual payroll will go with them.

But most disheartening to me is the massive lobbying and moneyed effort that is coming from certain areas of the furniture business to put FPI out of business and subject our 21,000 fellow workers to injury and death.

Madame Chairman and Members, the elimination of FPI is not about money, even though eliminating FPI or making it a shell by cutting off its sales through repealing its preference would cost taxpayers hundreds of millions of dollars. It is about the lives and safety of prison employees. The small comfort that the spouses and children of these federal employees have knowing that you have done your best to protect their loved ones from injury and even death goes without saying.

I urge you to reject any proposal that would make it more difficult to protect both inmates and BOP employees. Any effort such as the proposed legislation that reduces the effectiveness of FPI would do just that.

I appreciate your kind attention.

ASID

FOR THE RECORD

WRITTEN STATEMENT OF

SHERI LAKE, ASID

OF

METROSPACE, Inc.
Vienna, Virginia

ON BEHALF OF THE

AMERICAN SOCIETY OF INTERIOR DESIGNERS (ASID)

FOR THE HOUSE SMALL BUSINESS COMMITTEE HEARING

ON

JUNE 27, 1996

REGARDING THE FEDERAL PRISON INDUSTRY'S
MANDATORY SOURCE STATUS

Jan Meyers, Chair
House Small Business Committee
re.: FPI's Mandatory Source Status

ASID
6/27/96

On behalf of the 30,000 members of the American Society of Designers (ASID) , I am pleased to have the opportunity to submit a written statement for the record to the House Small Business Committee regarding the requirement for Federal agencies to purchase products made by Federal Prison Industry (FPI).

I am a member of the National Board of the American Society of Interior Designers; the Design Specialties Chair for Government and Institutional Designers within ASID; and the owner/principal of METROSPACE, Inc., Vienna, Virginia.

As the largest interior design organization, ASID's membership includes designers who are employed by the federal government and designers who are employed by firms competing for federal government contracts. These members are all keenly aware of the impact that the Federal Prison Industry's mandatory source has on the federal government.

As a private sector design firm, specializing in space planning, systems planning and feasibility studies for the federal government, I must compete for every design project. Only by establishing a reputation of producing quality design, responsive behavior and good follow through, am I invited to bid on Federal design projects. My firm is awarded a project only if ours is the lowest price of the firms invited to bid. This has been the bid process for the 10 years that I have competed for government contracts. This process for selecting design firms requires that I keep competitive by continuing to improve my training, my technology and my business skills.

It is hard to understand the reverse lack of fairness in competition for the furniture sold to the Federal government. The mandatory source status waiver process for UNICOR is a paperwork nightmare designed to detour all but the bravest of federal workers. The waiver must be completed by one with great expertise on furniture specifications, much defense, and a lot of backbone to go up against FPI. UNICOR is actually the judge and jury in determining who gets a waiver or not, and even in the most successful situations, the process usually ends up being a negotiation on what will be waived and what will not.

For example, "You are allowed to buy the workstations from another manufacturer, but you must buy the chairs and conference tables from FPI" is a typical verdict. Then the reality is that the workstations are installed on time, but the employees are without chairs for months, creating inconvenience and inefficiency resulting in reduced productivity for the agency. These situations have provided an education to some of

Jan Meyers, Chair
House Small Business Committee
re.: FPI's Mandatory Source Status

ASID
6/27/96

the employee union groups, who have become very vocal against the purchasing of UNICOR products.

I have come up against FPI's furnishings in almost all of the government agencies. When an agency is forced to use UNICOR, the design process comes to a halt. Typically it takes FPI 12-18 months to fill their orders.

U.S. Customs was told that they must purchase UNICOR seating. The design team asked for the technical specifications of the chairs, so that they could better evaluate the chairs with other manufacturers. They never received the specs, so the agency decided to do a comparison test with the UNICOR chair and five others with similar features and in the same price range. Employees from all divisions of the agency were asked to evaluate the six chairs—no one knew the manufacturer of the chairs. The UNICOR chair came in last in the scoring with the comment, "This is a piece of junk," written on several of the forms in the comments box.

At Immigration and Naturalization Services, a UNICOR systems furniture order was over 14 months to delivery and arrived with many missing parts. My client has tried over and over again to get the missing parts to finish the installation. To this date, almost 2½ years after the order was placed, they still do not have a completed installation.

At the US Coast Guard, UNICOR upholstered lounge pieces took over 24 months to arrive. Then when they did, the sofa was missing a leg. Once again, the service was not there to take care of the problem. To this day, the sofa sits at Coast Guard with a stack of books holding up one end. How can this lack of service give the Federal consumer the most for their dollar?

The Federal government, like most of corporate America, is changing and churning staff so frequently, that the lead time for FPI orders make the space plan or design obsolete by the time it is installed. Once again, how can this give the government good value for their money?

One of interior designers' biggest flaws is that they become personally involved with their design projects. Government and institutional designers are no different—we passionately want great design and good quality to be part of the federal government's standard. It is discouraging when I learn that a project that I have programmed and planned will be ordered as UNICOR. I have learned to detach

Jan Meyers, Chair
House Small Business Committee
re.: FPI's Mandatory Source Status

ASID
6/27/96

immediately. I do not even want my firm's name attached to the project, because I know that the client will have problems and will be unhappy with the end result.

The media has made popular sport out of watching Federal spending. FPI is not the lowest priced or the best quality furniture, and yet the government is forced in many cases to purchase it. The newspapers would have a field day with a photo of the systems installation with missing pieces or the sofa with the stack of books holding up one end. It is obvious to us who work in the Federal arena—and it would be to the public if they saw these problems—that FPI, with its mandatory source status, has no incentive to improve its quality or service.

We do not ask for the elimination of the Federal Prison Industries programs, but we strongly support the elimination of FPI's mandatory source status. By making FPI compete with other manufacturers—just as the contractors compete equally with other contractors— all will have the same chance to win government bids.

In fact, the competition should be good for UNICOR and for the purchasers of its products. If FPI is put on a level playing field, and the federal consumer is allowed to shop for the most appropriate furniture, the best quality, and the best price, FPI will be forced to do what all companies who compete for federal contracts must do: constantly evaluate and improve quality, delivery time, and service.

Federal Prison Industries has come a long way in developing skills for paroled inmates to bring to potential employers. I believe by making FPI compete commercially with other manufacturers for business, it will only improve the inmate's business skills as well.

XXX



David B. Lilly Company, Inc.

EST 1950

May 02, 1996

Representative Jan Meyers
2303 RHOB
Washington, DC 20515-1603

Subject: *Federal Prison Industries plans to begin manufacturing Shipping and Storage Containers.*

Dear Representative Meyers:

The Commerce Business Daily dated 22 March 1996 contained a "Special Notice" regarding an impact study prepared by the Federal Prison Industries Staff regarding their proposal to begin production of Shipping and Storage Containers for the Government. See attachment 1 (letter from U.S. Department of Justice and cover page from document).

The information contained therein projects a very robust market place with significant growth.

Someone missed the boat! A significant portion of the Governments expenditures for containers has been for storing ammunition and related items. Has anyone told the FPI that the Government has reduced expenditures drastically in this area with no projected increase in sight? See attachment 2 with supporting documents. Based on the Governments information and what we see in the market place, a dramatic reduction in volume is occurring.

Many of the companies identified in this report are small businesses with a significant share of their business related to the U.S. Government. The loss of business to FPI will mean law abiding, tax paying, voting citizens are to be put out of work to provide work for a convicted felon.

In addition, many of the higher dollar purchase items are very specialized products. Individual businesses, most of them small businesses, have made significant capital investments in special equipment, tooling and fixtures to be able to produce shipping and storage containers. Are we, as taxpayers, committed to footing the bill for the Government to tool up to now take over this business?



Page 2
May 01, 1996
FPI Shipping and Storage Container Proposal

The David B. Lilly Company, with headquarters in Wilmington Delaware and its Delfasco manufacturing divisions in Greeneville, Tennessee and Grand Prairie, Texas, produces various shipping and storage containers for the Government. We are recognized as a small business with approximately 200 employees. We have invested in excess of \$5 million in facilities, equipment and tooling dedicated to the production of Shipping and Storage Containers for the Government.

All we ask is to have the opportunity to compete on 100% of the requirement, not 80% after a set-aside is removed for FPI. Our company was included in the FPI study. Were we contacted? No! We became aware of the effort through industry contacts.

The Federal Prison Industries operate under the authority of legislation enacted in 1949. Times have changed! A justification for FPI's proposed actions is "the rapidly increasing Bureau of Prison Population". It's painfully obvious this country's "war on drugs" has been lost. Our prisons are full of criminals with a vast majority of the crimes in some way related to drugs.

Are we going to continue to penalize the law abiding citizens of this country?

Somewhere, our legislative priorities have gotten way off course. Your obligations first should be to encourage and protect the welfare of honest citizens. The loss of even one job for a law abiding employee is too much if it is to be given to a convicted felon.

The study which was used to support the FPI proposed action on shipping and storage containers is seriously flawed. Your action to put a stop to this travesty will be appreciated. Further, I would encourage serious changes to the legislation that founded the FPI. Attachment 3 suggests FPI's actions and reputation in other markets deserves attention!

Your action as well as a response is appreciated.

Sincerely,
David B. Lilly Company, Inc.



Philip E. Kadlec
• President

PEK:ecv

Enclosures

U.S. Department of Justice
Federal Bureau of Prisons

Washington, DC 20534

March 27, 1996

David B. Lilly Company, Inc.
P. O. Box 10527
Wilmington, Delaware

Dear Sir/Madame:

This is in reference to your recent letter, requesting a copy of the impact study of Federal Prison Industries' proposal to produce aluminum and steel shipping and storage containers. Enclosed you will find a copy of that analysis. I have also enclosed a copy of the procedures that we use in soliciting and evaluating comments on proposals to produce a new product or to significantly expand production of an existing product.

The availability of the study was announced in the Commerce Business Daily on March 22, 1996. The 45-day comment period ends May 6, 1996. Thank you for your interest and please let me know if I can be of further assistance.

Sincerely,

(f) *Robert C. Grieser*
Robert C. Grieser, Manager
Planning, Research, and
Activation Branch

Enclosures

ATTACHMENT 1A

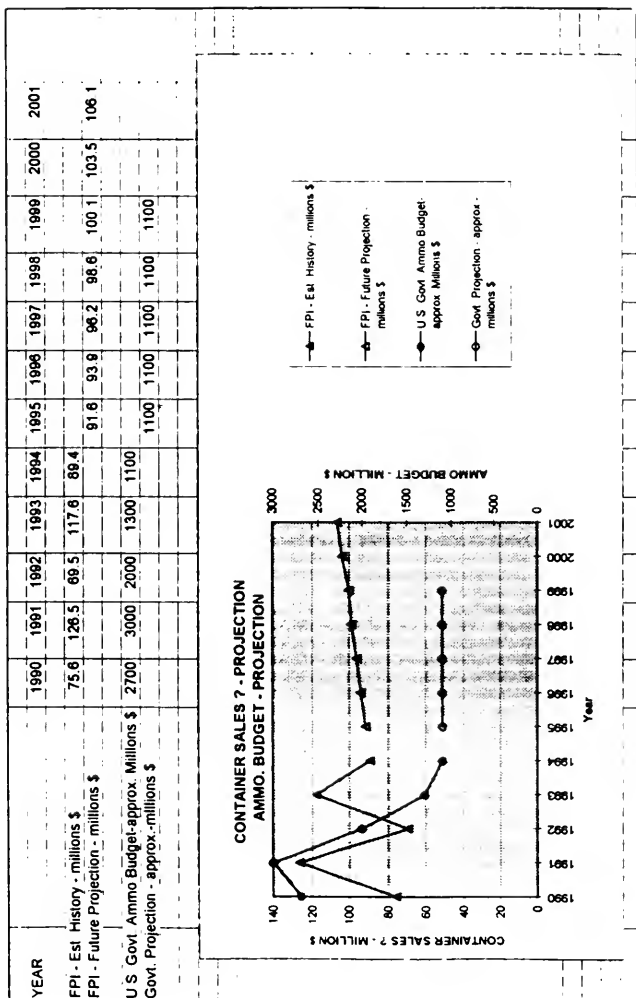
APR 01 1996

**IMPACT STUDY OF
FPI'S PROPOSED PRODUCTION OF
ALUMINUM AND STEEL
SHIPPING AND STORAGE CONTAINERS**

Federal Prison Industries, Inc.
Planning, Research, and Activation
March, 1996

Attachment 1B

Sheet 1



ATTACHMENT 2A

BUDGET

The ammunition budget continues to be a major driver in the management of the industrial base. As shown in Figure 5, the Total Obligation Authority (TOA) for all services levels off in Fiscal Year 1995. For Fiscal Year 1995, the Army portion of the President's Budget was submitted at \$845 million and for all services at \$1.1 billion. As a result of the February 1994 Army's Functional Area Assessment, a plus-up of around \$200 million per year may occur. If this plus-up becomes a reality, the projected guidance for all services for Fiscal Years 1996-2001 is estimated at around \$1.5 billion annually.

AMMO PROGRAM TREND (ALL SERVICES)

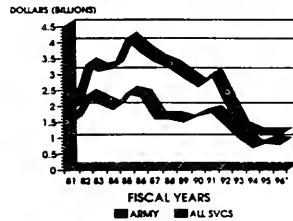


FIGURE 5

Stratification by type of ammunition highlights some trends that have a significant impact on production base planning. Hardware is funded through the Activity 1 portion of the Procurement, Ammunition, Army (PAA) Appropriation (Figure 6).

CONVENTIONAL AMMUNITION FYDP PROCUREMENTS (THEN-YEAR DOLLARS)

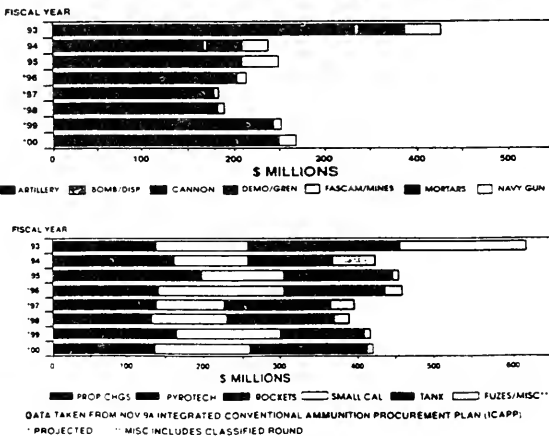


FIGURE 6

Several changes have occurred since last year's study. For the most part, procurement projections have gone down. The ammunition families with significant drops for Fiscal Years 1996-1999 are: Navy Gun 88 percent, Fuzes / Miscellaneous 74 percent, and Cannon Caliber 37 percent. Although Artillery and Prop Charges dropped to zero, the previous buys for that period were very small. Future defense sales are at critical levels in these areas, and without additional peacetime procurement dollars, capability will be in serious jeopardy in the near future.

Attachment 28



February 1995

The production readiness and depot storage missions of the ammunition industrial base have realized many changes in the past year. With reduced budgets and requirements it is necessary to streamline the management of our total base. This must be done in a logical manner without losing the ability to produce new, advanced items applying the technologies of the future.

We must accomplish this through effective management of the Army's organic industrial facilities, the depots, arsenals and ammunition plants and by nurturing productive working relationships with our commercial counterparts.

This book addresses the state of the current ammunition industrial base, storage depots, and depot activities and discusses our major accomplishments of the past year. It also provides a glimpse into the future of how the base will adapt as change occurs.

We at the Industrial Operations Command are committed to continue fostering a viable, responsive, technology oriented manufacturing base with both Government and commercial industry. By carefully balancing our limited resources, we can achieve this commitment to satisfy the needs of our forces for defense of this great nation.

Sincerely,

Dennis L. Benchoff

Dennis L. Benchoff
Major General, U.S. Army
Commanding

Attachment 2C

Furniture Makers Allege Prison Agency May Well Force Them Out of Business

By JOE DAVIDSON

Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON—Small furniture-makers contend they could be forced out of business by an unlikely rival: the government-owned Federal Prison Industries Inc.

The corporation, part of the Justice Department's Bureau of Prisons, employs prison labor to build furniture for the military. Reflecting the rapid growth in the federal prison population, FPI has gone on an expansion binge since the early 1990s.

A trade group representing companies that compete for furniture orders for the Pentagon's dormitories and quarters says that FPI's workers aren't the only ones who have broken rules; FPI, it contends in an administrative complaint and a lawsuit, violated the law by expanding production without getting the required approval from its board. The Quarters Furniture Manufacturers Association complains that the expansion could put many smaller companies out of business — especially since it comes at a time when the Pentagon's downsizing has cut its demand for furniture.

'Undue Burden'

The expansion has "created an undue burden on small businesses and threatens to force them out of business," says Matt Yanson, the trade association's secretary treasurer and vice president for federal sales at Interior Elements in Columbia, Md.

Interior Elements is a small business, employing less than 50 people. Between 1991 and 1995, its government dormitory and quarters business fell to under \$1 million from more than \$3 million, Mr. Yanson says. There's also pressure from state-prison industries, too, he says.

FPI, which uses the trade name Unicor, now controls nearly a quarter of the market for furniture for the Pentagon's dormitories and quarters, and its management is seeking the approval of its board to capture 35% by 2000. The board plans to announce its decision later this month.

A Bureau of Prisons spokesman said he could not comment on the matter, which is under litigation, and Steve Schwalb, FPI's

chief executive, wasn't available for comment yesterday. The corporation is mandated by law to employ the greatest number of inmates reasonably possible. It enjoys the right of first refusal with its military customers, so before a private firm can get a military order the military must get an FPI waiver.

Dramatic Growth in Sales

FPI's sales of dorm and quarters furniture have grown sharply in recent years, doubling to \$20.7 million between 1991 and 1992 and growing another 21% the following year.

According to documents submitted in the case, FPI's staff didn't ask for the required approvals for earlier expansions because "the guidelines 'trigger' was inadvertently tripped" when additional capacity was added; that was before the corporation changed the way it calculates its share of the federal furniture market.

Also, when FPI built a new furniture factory in Sheridan, Ore., "it did not occur to FPI officials that the use of this new location . . . should have been brought to the board's attention at that time," Assistant Attorney General Andrew Fols wrote in reply to a separate congressional inquiry.

FPI's expansion is taking place in a market that declines as the number of military personnel drops and with a customer that has serious complaints about FPI's products, services and prices. In a September letter to FPI, Capt. Roland Gorrie, head of the Navy's bachelor-quarters program, said all the services want FPI to "reduce their market share based on documented instances of poor quality/construction, late delivery, and minimum choice/selection of the products."

FPI's prices don't necessarily reflect its wages, which range from 23 cents to \$1.15 an hour, paid to the inmates. At the board's December meeting, Capt. Gorrie said that an FPI wall unit costs \$540 compared with \$389 for one from a private company. FPI shipping and installation charges are 12%, he said, while commercial suppliers charge 6% to 8%. Rather than expanding, FPI should have just 10% to 15% of the market, he added. "We don't think we receive, in some cases, the best value for the money," Capt. Gorrie says.

Attachment 3

PP *Delfasco* 99

David B. Lilly Company, Inc.

EST 1950

Tuesday, June 25, 1996

The Board of Directors
Federal Prison Industries, Inc.
c/o Mr. Robert Grieser
311 First Street, N.W.
Washington, D. C., 20534

Subject: Impact Study of FPI's Proposed Production of Aluminum and Steel Shipping / Storage Containers.

Dear Board Members:

The objective of the Federal Prison Industries to provide employment to inmates in Federal Prisons is a worthwhile cause. We also understand, however, the authorizing legislation provided certain criteria for evaluating targeted products. We have great concern regarding the following issues.

- 1) The denial by FPI that any private sector jobs will be lost.
- 2) The jobs to be lost will be lost by small businesses.
- 3) Aluminum and Steel Shipping and Storage Containers for the Federal Government are not labor intensive products.

1) The denial by FPI that any private sector jobs will be lost. (Reference FPI comments and Responses - Response 1 page 2 -- "FPI has not received any documentation that shows that its operations have or will result in a loss of private sector jobs.")

Appendix III of the impact study lists data on a cross section of private sector companies, small and large -- all involved in the "container" industry. DL Figure 1 (attached) is a compilation of the FPI data on number of employees and sales. The average sales per employee is \$116,000. A logical conclusion is that if FPI unilaterally removes \$21,000,000 of container business to employ 344 inmates, 180 law abiding private industry employees will lose their jobs. (\$21,000,000 divided by \$116,074 sales per public sector employee.)

Conclusion: One private sector employee loses their job for every \$116,074 dollars of container sales by FPI. (As a side note, these loses are indeed U.S. Citizens or Legal Immigrants as we are obligated by law to assure all of our employees fit the above category. I presume FPI is set up to assure that no illegal aliens perform work for the U.S. Government!)



June 25, 1996
 The Board of Directors
 Federal Prison Industries, Inc.
 Page 2

2) The FPI study acknowledges a "majority" of the businesses involved are small businesses. (Page 23). FPI conveniently left out details showing this majority amounts to 83% of the companies identified and 91% of the sales dollars (Based on FPI table on page 24). See DF Figure 2 attached. DL Figures 3 and 4 (attached) summarize the FPI data in Appendix III. This data shows a declining market for those companies involved and one where in 1994, 97% of the dollars were supplied by small business.

Conclusion: 18 USC Section 4122 (b)(4)(ii) instructs the FPI Board of Directors to identify and consider the proportion of the Federal Government market for the product currently served by small businesses. —. The action proposed by FPI, a government controlled "LARGE BUSINESS" will have a dramatic impact on many small businesses. The average annual container sales for the small businesses in Figure 3 is just under \$1 Million per year. The FPI target of \$21,000,000 sales by 2001 will effectively take 21 small businesses out of the container business and likely will force a number into bankruptcy. (See DL Figure 3 for calculations based on FPI data.)

3) These products are not commodity items. Typically products can be categorized into three manufacturing groups.

- o Low volume — Generally labor intensive - product supplied by job shops
- o Medium volume — less labor content, makes use of dedicated tooling to achieve quality requirements and to minimize cost — product supplied by contract manufacturing firms.
- o High volume — very low labor content - high degree of automation for specific products. Fully dedicated assembly lines — usually owned by large businesses.

The Federal Government containers fit in the low to medium volume categories. The large dollar volume is in the medium volume category. While certain containers look similar, and some have common components such as handles, etc., each container requires unique dedicated stamping and forming tooling. Usually only 2 or 3 companies have tooling in place for a specific product. Each product has been specifically designed to serve a specific need. The U.S. Government market is not served with a commodity product.

Companies that produce ammunition and missile containers for the U.S. Government cannot switch to supply the commercial market. Please tell me what is the commercial counterpart to an ammunition container or a missile container? We have looked long and hard to find such a replacement commercial market. Commercial and Government products are dramatically different. The commercial container market is centered in the high volume, long run category. Extensive and specialized capital investments are required to serve the commercial market.



June 25, 1996
 The Board of Directors
 Federal Prison Industries, Inc.
 Page 3

The FPI study (on page 16) acknowledges the aluminum container industry is predominantly comprised of beverage cans. The steel commercial container industry includes paint cans, food containers, etc. High speed equipment is required to serve that market. None of the small businesses identified in the FPI study have the facilities or the financial ability to invest to supply the commercial container market. Are we simply expected to abandon the investment in specialized tooling and machinery to make containers for the Federal Government?

Brockway Standard serves both Government and Commercial container markets. Has FPI asked Brockway Standard if they use the same machinery and equipment to serve Government and commercial markets?


Conclusion: The equipment needed to practically serve government and commercial markets is dramatically different. No one challenged FPI's commercial market information because none of the small business producers are in or can hope to participate in the commercial market. While FPI may claim the commercial market is available to the private sector government container producers, the practical conclusion is that none are able to serve that market. It would require these small businesses to attempt to enter a totally new line of business.

A sample of our prior letters to the Small Business Administration as well as to Senators and Congressmen are attached.

As a final comment, the code 18 USC Section 4122 (b)(1) states " Its board of directors shall provide employment for the greatest number of those inmates " as is reasonably possible,, and to reduce to a minimum competition with private industry or free labor".

This proposed venture into production of aluminum and steel containers would totally ignore this objective. The effect on private enterprise and free labor will be disastrous. This action will result in the loss of approximately 180 jobs in the private sector. As such, your only conclusion can be to deny this request.

Sincerely,
 David B. Lilly Company, Inc.


 Philip E. Kadlec
 President

cc: SBA, etc.
 Enclosures

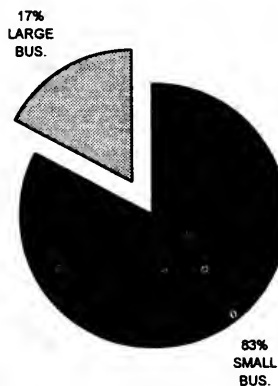
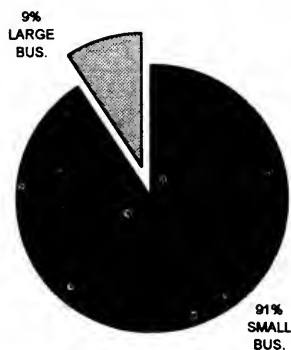
DL Figure 1

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INFORMATION FROM FPI IMPACT STUDY -- APPENDIX III					
COMPANY	no. of employees	sales dollars	sales \$ per employee	small business	labor surplus area
Lemco, Inc.	2	Wholesale Co.	not applicable	yes	yes
Garrett Container Systems, Inc.	10			yes	yes
See Box, Inc.	16	\$4,800,000	\$287,500	yes	no
Modular Container Systems, Inc.	24	\$2,800,000	\$116,667	yes	no
Ridge, Inc.	25	\$3,800,000	\$156,000	yes	no
Engineered Packaging	30	\$8,000,000	\$266,667	yes	yes
LBCO, Inc.	32	\$1,000,000	\$31,250	yes	yes
J R Custom Metal Products, Inc.	32	\$2,800,000	\$81,250	yes	yes
T-Bear Consolidated Co.'s	35			yes	no
Manutach, Inc.	35			yes	
Wayne Metalcraft	36			yes	
Advanced Industries, Inc.	45	\$3,000,000	\$66,667	yes	
Aztec Technology Corporation	47	\$5,800,000	\$123,404	yes	no
Klinge Corporation	50	\$6,500,000	\$130,000	yes	yes
Ver-Vai Enterprises	53	\$5,000,000	\$94,340	yes	yes
Southern Defense Systems, Inc.	57	\$3,400,000	\$59,649	yes	
General Engr. Services	70	\$5,500,000	\$78,571	yes	no
Plastics Research Corporation	80	\$10,000,000	\$125,000	yes	
Williamson Metal Works	85			yes	no
The Champion Company	100			yes	yes
Precision Machining, Inc.	110	\$8,800,000	\$80,000	yes	no
Safety Storage, Inc.	130	\$17,500,000	\$134,615	yes	
Abbott Products, Inc.	249	\$20,000,000	\$80,321	yes	
L.W. Looney and Son, Inc.	200	\$10,000,000	\$50,000	yes	no
Nomura Enterprises	200	\$14,800,000	\$73,000	yes	yes
David B. Lily Company, Inc.	225	\$18,000,000	\$80,000	yes	yes
Alfab, Inc.	260	\$18,000,000	\$69,231	yes	yes
Keco Industries, Inc.	375	\$48,700,000	\$129,867	yes	no
Harding Industries, Inc.	425			yes	
AC, Inc.	125	\$7,000,000	\$56,000	yes	no
Agressive Engr. Corp.		\$3,000,000		yes	no
Average sales \$ per employee			\$107,727		
Small Business					
AAR Brooks and Perkins	700	\$97,000,000	\$138,571	no	yes
Chomerica, Inc.	700			no	yes
Mobile Storage Group, Inc.	700			no	no
Vectra Technologies	1000	\$140,000,000	\$140,000	no	no
Brockway Standard, Inc.	1200	\$247,000,000	\$205,833	no	yes
Zero Corporation	1684	\$179,700,000	\$106,710	no	no
McDonnell Douglas Helicopter Co.	3000	\$482,000,000	\$160,667	no	no
United Technologies Corp.	171500	\$22,000,000,000	\$128,280	no	yes
Arnvi Cases, Inc.				no	
Average Sales \$ per employee			\$146,677		
Large Business					
Average - All Businesses					
			\$116,074		
\$21,000,000 FPI Sales Objective divided by \$116,074 = 180.9					
180 Private Industry Employees will lose their jobs.					

DL Figure 2

DATA FROM FPI IMPACT STUDY -- FIGURE 13, PAGE 24

	NO. OF COMPANIES	%	INDICATED AVERAGE FEDERAL SALES DOLLARS	%
SMALL BUSINESSES	58	83%	\$60,760,000	91%
LARGE BUSINESSES	12	17%	\$6,164,000	9%
TOTAL	70	100%	\$66,924,000	100%

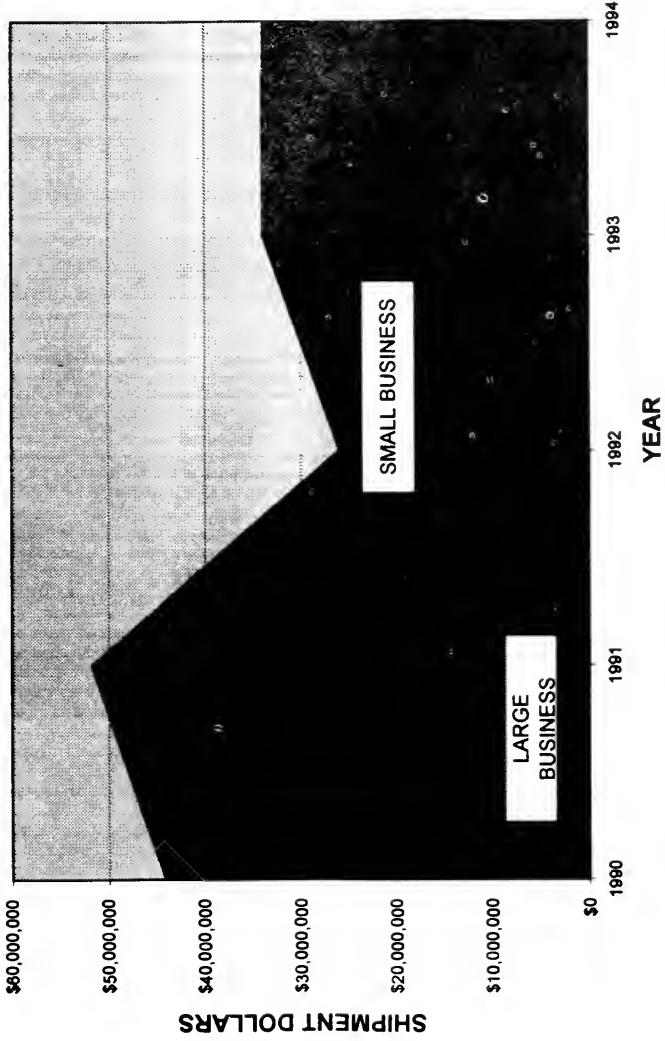
NUMBER OF COMPANIES**SALES DOLLARS**

DL Figure 3

INFORMATION FROM FPI IMPACT STUDY -- APPENDIX III									
COMPANY	no. of employees	small business	labor surplus area	YEAR					
				1990	1991	1992	1993	1994	
Lemco, Inc.	2	yes	yes	67,000	1,738,000		140,000		
Garrett Container Systems, Inc.	10	yes	yes				737,000		
Sea Box, Inc.	16	yes	no		1,363,000		73,000	-73,000	
Modular Container Systems, Inc.	24	yes	no	117,000		95,000			
Ridge, Inc.	25	yes	no			3,793,000	57,000		
Engineered Packaging	30	yes	yes					29,000	
LBCO, Inc.	32	yes	yes		4,275,000	195,000	1,282,000	564,000	
J R Custom Metal Products, Inc.	32	yes						644,000	
T-Bear Consolidated Co.'s	35	yes	no	215,000	789,000	1,377,000	1,175,000	106,000	
Manutech, Inc.	35	yes						1,229,000	
Wayne Metalcraft	36	yes					74,000		
Advanced industries, Inc.	45	yes					1,399,000	649,000	
Aztec Technology Corporation	47	yes	no	46,000	242,000	234,000			
Klinge Corporation	50	yes	yes				3,758,000	1,704,000	
Ver-Val Enterprises	53	yes	yes	6,333,000	1,724,000	-1,725,000			
Southern Defense Systems, Inc.	57	yes					443,000		
General Engr. Services	70	yes	no	863,000	1,031,000	1,282,000	8,593,000	669,000	
Plastics Research Corporation	80	yes	no	1,120,000	262,000	196,000	1,206,000	5,958,000	
Williamson Metal Works	85	yes	yes	1,579,000	1,818,000	250,000		90,000	
The Champion Company	100	yes	yes	3,116,000	157,000	3,023,000	2,603,000	2,119,000	
Precision Machining, Inc.	110	yes	no	4,225,000	2,746,000	4,906,000	1,546,000	1,214,000	
AC, Inc.	125	yes	no	291,000	37,000	220,000	166,000	695,000	
Safety Storage, Inc.	130	yes					757,000	1,850,000	
Abbott Products, Inc.	175	yes					4,154,000	1,222,000	
L.W. Looney and Son, Inc.	200	yes	no	299,000	2,424,000	1,282,000	1,550,000	8,343,000	
Nomura Enterprises	200	yes	yes						
David B. Lilly Company, Inc.	225	yes	yes	1,793,000	484,000	895,000			
Alfab, Inc.	260	yes	yes	350,000	1,055,000		146,000		
Kaco Industries, Inc.	375	yes	no		19,309,000		1,386,000	4,753,285	
Hardigg Industries, Inc.	425	yes		11,722,000	140,000	29,000	36,000	884,000	
Aggressive Engr. Corp.		yes	no			439,000	507,000	188,000	
Subtotal - Small Business				\$32,136,000	\$39,594,000	\$16,491,000	\$29,768,000	\$32,837,285	
Small Business % of Total				73%	77%	64%	88%	97%	
AAR Brooks and Perkins	700	no	yes	2,962,000	9,049,000	1,147,000	1,797,000	112,000	
Chomerics, Inc.	700	no	yes	56,000				263,000	
Mobile Storage Group, Inc.	700	no	no		102,000		104,000	162,000	
Vectra Technologies	1000	no	no				52,000	365,000	
Brookway Standard, Inc.	1200	no	yes	8,888,000	3,085,000	7,836,000	1,836,000		
Zero Corporation	1684	no	no				109,000	37,000	
McDonnell Douglas Helicopter Co.	3000	no	no			90,000			
United Technologies Corp.	171500	no	yes	10,000	-126,000	228,000	88,000		
Arnvi Cases, Inc.		no				44,000	71,000	106,000	
Subtotal - Large Business				\$11,946,000	\$12,110,000	\$9,448,000	\$4,057,000	\$1,045,000	
Large Business % of Total				27%	23%	36%	12%	3%	
Total - Small and Large				\$44,082,000	\$51,704,000	\$25,939,000	\$33,825,000	\$33,882,285	
				Year	Sales				
Small Business Sales Totals by year >>>>>				1990	\$32,136,000				
(See Subtotal - Small Business in chart above)				1991	\$39,594,000				
				1992	\$16,491,000				
				1993	\$29,768,000				
				1994	\$32,837,285				
5 year total for 31 companies >>>>>>>					\$150,827,285				
Average Container Sales per Year per Company >>>>					\$973,079	i.e. Average sales are less than \$1 Million per Small Business Supplier			

DL Figure 4

**FPI IMPACT STUDY - APPENDIX III
IDENTIFIED COMPANY SHIPMENT DOLLARS BY YEAR**





SPECIALTY PLASTIC PRODUCTS OF PENNSYLVANIA, INC.

530 SHERWOOD AVENUE • DUNMORE, PA 18512
(717) 961-2042 • 346-5315 • FAX (717) 961-5176

June 21, 1996

17192
YCRThe Honorable Jan Meyers, Chair
House Small Business Committee
Room 2361 RHOB
Washington, D.C. 20515

Dear Representative Meyers,

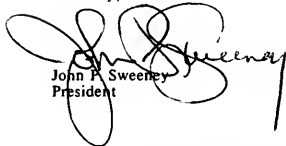
I've been notified by AAMA that you will be holding hearings relative to Federal Prison Industries. As a small business owner, we employ approximately 425 people in the states of Pennsylvania, Tennessee and Kentucky. We manufacture various U.S. military products for DLA through their procurement center, DPSC in Philadelphia. We are one of a very few private businesses that manufacture combat helmets and soft body armor for the U.S. forces. However, since 1989 all military procurement of the combat infantry helmet has been procured without bid from Federal Prison Industries, and they have also been awarded contracts to purchase soft body armor on an annual basis. We do not object to their manufacturing of military items, but we do feel that it is not fair to us or fair to the U.S. military that we are not allowed to manufacture a portion of the helmets procured on an annual basis.

Let me repeat again, we have not had an opportunity to bid on a U.S. combat (PASGT) helmet contract. I cannot speak for other helmet manufacturers in the U.S., but none of us have had an opportunity to bid. It seems only fair to me that we would be allowed to manufacture some of the helmets, as is the case with body armor. But it's my understanding that F.P.I. want all of the soft body armor contracts, as they now receive all of the helmet contracts.

I would be remiss in my responsibilities to my employees if I did not express this strong displeasure with the way hard working, tax paying Americans are being treated by this arbitrary helmet procurement process. In time of great national emergency, not having other helmet manufacturers ready to perform appears to be an unsafe course to follow.

Thank you for any consideration you can give us as well as my colleagues in the helmet industry.

Sincerely,


John P. Sweeney
Presidentc: Honorable Joseph M. McDade, M.C.
Honorable Rick Santorum, U.S. Senate
Honorable Arlen Specter, U.S. Senate
Honorable Van Hilleary, M.C.

TO: Bob Koakley
 FROM: Ralph J. Benso
 DATE: June 27, 1996
 RE: FPI Alert

NATCO Inc. has held a GSA Contract for Modular Furniture over 15 years 80% of our business is done via this contract.

Over the last four years we have lost 1/3 of our business due to FPI. It has been necessary for us to stop calling on the following accounts:

1. Pentagon
2. Quantico
3. Justice Department
4. We have a great deal of difficulty at Andrews.
5. We are losing business to many other Agencies.

Listed are some of the orders we have lost:

1. Key West Naval Air Station	\$1,356.00
2. Otis Air National Guard	470,00.00
3. U. S. Naval Academy	58,731.00
4. U. S. Naval Academy	45,173.00
5. Andrews Air Force Base	<u>31,999.00</u>
	607,259.00

The above figure does not tell the complete story because it does not include business lost where NATCO has been completely excluded. However, \$607, 259 is sufficient sales to keep five (5) law abiding citizens working for one year.

During this past year we have permanently laid off four (4) factory workers and have reduced our hours from 40 to 32 hours per week. In addition, all Executive Personnel have dramatically cut their wages.

Congressional letters that I have received all stipulate that Convicts must be kept busy. Also, FPI sales would be monitored so that the private sector would not be harmed. We have been waiting for this to take place but instead each year the Prison Industry raises its sales figures. An end must be put to this.

The point that I'm forced to agree on is that our government states, "We are going to manufacture products PERIOD". However, all I'm asking for is that you will give us a level playing field

TO Mr Bob Koakley
FROM Ralph J Benso

June 27, 1996

- Page 2 -

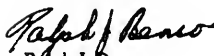
A level playing field is one where two participants square off and may the best man win. Instead, after making a sales call and then performing all that is necessary to satisfy a prospect's needs the following takes place. The end user has to go to FPI and ask for a waiver. All FPI has to do is say yes or no. At this point the game is over as FPI holds the Mandate. Keep in mind that FPI did not even have to show up to win.

My final point is, based on FPI's tactics, that we, therefore, should have a higher authority who judges all Political Elections and all other contests. After the contest is over the Higher Authority makes his judgment. He states, "You have more points, votes, etc. but I have the first right of refusal and I Mandate the results to someone else."

Keep in mind that for every \$125,000 sales income which FPI produces per year, one(1) Law-abiding citizen loses his job. If FPI does one billion dollars per year, this equates to 8,000 jobs. When you carry this through to lost taxes and other private sector losses it is an enormous loss to our economy.

Respectfully submitted,

NATCO, Inc.



Ralph J. Benso
Founder



U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

OFFICE OF CHIEF COUNSEL FOR ADVOCACY

APR 11 1996

The Honorable Jan Meyers
Chairwoman
Committee on Small Business
United States House of Representatives
Rayburn House Office Building
Room 2361
Washington, DC 20515

Dear Chairwoman Meyers:

I was pleased to learn that you and Representative Pete Hoekstra, Chairman of the Oversight and Investigations Subcommittee of the House Economic and Educational Opportunities Committee, are planning to introduce legislation that will stop unfair government competition.

The Office of Advocacy enthusiastically supports legislative restrictions that would curtail government entities from competing unfairly with small firms. This is a long-standing small business issue and a top recommendation at last year's White House Conference on Small Business.

Specifically, your proposed legislation would remove the Federal Prison Industries' (FPI) status as a mandatory source of federal supplies and require it to compete commercially for federal contracts, echoing a recommendation of the National Performance Review. This provision would help many small firms by leveling the playing field so they could compete fairly for federal contracts in industries where FPI is currently the mandatory source.

FPI is a wholly owned government corporation whose mission is to provide work and training opportunities to inmates in federal prisons. The Office of Advocacy supports FPI's mission to the extent that it is self-sufficient and competitive, without infringing upon on the rights of competitive small firms.

The Office of Advocacy has recently heard from many small firms, especially in the furniture and signage industries, who are troubled by and very concerned with FPI's unfair intrusion within their markets.

For example, a couple of weeks ago my office was contacted by Stanco Signage Systems, a small firm in Maryland. This local business claims, "Our ability to compete is now being severely challenged by a new program. FPI has engaged a sole source private manufacturing firm as a "partner." This firm (System,



The Honorable Jan Meyers

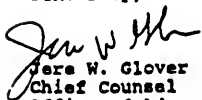
Page 2

2/90 of Grand Rapids, MI) produces patented, proprietary signs that may not be duplicated by any American manufacturer. This relationship yields a mandatory-sole source arrangement which is almost impossible for anyone to enter into competition. We maintain that this arrangement is both unfair and illegal."

We are currently reviewing the matter raised by Stanco Signage Systems with FPI. Other companies have similarly complained that FPI invokes its mandatory source status to obtain, non competitively, the most lucrative federal contracts in certain industries, at the expense of fewer procurement opportunities for small firms and the loss of American jobs.

The Office of Advocacy shares the commitment of the Congress to stop unfair government competition. Open competition strengthens the economy by providing profit and other incentives for firms that are responsive to the needs of a dynamic and ever-changing customer base. Ensuring the free and continuous access of small and new firms to federal procurement opportunities is a *sine qua non* of a dynamic and competitive federal marketplace.

Sincerely,


Jere W. Glover
Chief Counsel
Office of Advocacy

Competition in Contracting Act Coalition

1331 Pennsylvania Avenue, NW
Suite 1500, North Tower
Washington, DC 20004-1790

April 16, 1996

Dear Member of Congress:

We, the members of the Competition In Contracting Act Coalition, believe the time has come to introduce competition into the purchasing process for federal goods. Today, federal agencies are forced to buy prison-made products through Federal Prison Industries, Inc. It is considered the mandatory source of some 85 items ranging from general supplies to office furniture. This is a classic case of government waste where our tax dollars are not getting either fair and reasonable prices or the best quality products available.

It is time to adopt the recommendation of the National Performance Review which states that our government should "Take away the Federal Prison Industries' status as a mandatory source of federal supplies and require it to compete commercially for federal agencies' business." We understand that Representatives Jan Meyers and Pete Hoekstra are now seeking original co-sponsors for a bill that would do just that. We urge your support for this legislation and look forward to hearing from you.

Sincerely,

American Apparel Manufacturer's Association
American Seating Company
American Society of Interior Designers
Business and Institutional Furniture Manufacturer's Association
Business Coalition for Fair Competition
Business Products Industry Association
Grand Rapids Area Furniture Manufacturer's Association
Haworth Inc
Herman Miller Inc
HON INDUSTRIES Inc
Industrial Fabrics Association International
International Interior Design Association
Kimball International Inc
Knoll Inc
NATCO Inc
National Association of Manufacturers
Omni International Inc
Quarters Furniture Manufacturer's Association
Steelcase Inc
Trendway Corporation
U.S. Hispanic Chamber of Commerce
Wiley Office Equipment Company

Contact Person: Brad Miller, 616-285-3963 or bmiller@bifma.com



NFIB
National Federation of
Independent Business

June 27, 1996

Representative Jan Meyers
Chairwoman, House Small Business Committee
United States House of Representatives
Washington, DC 20515

Dear Representative Meyers:

On behalf of the more than 600,000 members of the National Federation of Independent Business (NFIB), I am writing to urge the Congress to take action to ensure that increased competition is encouraged between small business and prisons.

It is well known that government agencies sometimes compete against private businesses in providing goods and services. Today, federal agencies are forced to buy prison-made products through Federal Prison Industries, Inc. (FPI). It is considered the mandatory source of some 85 items ranging from general supplies to office furniture. This is yet another example of avoidable government waste as virtually all such items are available from the private sector, which provides them more efficiently and at lower prices. In addition, such mandatory purchases from the FPI costs America jobs. Firms that can't enter an industry or expand production, can't hire new employees.

In a survey of our members, 70 percent believe that government agencies should not be allowed to compete against private businesses. In addition, the prohibition of competition between government agencies and small businesses was one of the top recommendations of the 1995 White House Conference on Small Business. Small businesses do not want to prohibit prison industries from entering the market, they just want a fair and level playing field upon which to compete against the FPI.

We urge you to take action to ensure that the FPI competes fairly for federal agencies' business. Small businesses should not have to compete with government-supported entities with exclusive contracts that give them an immediate and unfair advantage.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Dan Danner'.

Dan Danner
Vice President
Federal Governmental Relations

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

R. BRUCE JOSTEN
SENIOR VICE PRESIDENT
MEMBERSHIP POLICY GROUP

1615 H STREET, N.W.
WASHINGTON, D.C. 20062-2000
202/463-6310 202/887-3403 FAX

August 7, 1996

The Honorable Jan Meyers
Chairman
Committee on Small Business
U.S. House of Representatives
2361 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Meyers:

On behalf of the U.S. Chamber of Commerce membership of 215,000 businesses, 3,000 state and local chambers of commerce, 1,200 trade and professional associations, and 76 American Chambers of Commerce abroad, we encourage your efforts to enact H.R. 3745, "The Competition in Contracting Corrections Act," removing the Federal Prison Industries (FPI) as a "required source of supply" for federal government purchasing.

The Chamber has long-standing policy that the government should not perform the production of goods or services for itself or others if acceptable privately owned and operated services are or can be made available for such purposes. We recognize the importance of the productive training and employment of our nation's inmate population. However, we believe that there are other substantial sources of work available to inmates that would not infringe upon the private sector's opportunities to compete for government contracts. Clearly, a balance must be struck between these two competing goals. Market-share provisions within H.R. 3745, limiting FPI to no more than 20 percent of the entire market for any good or service, is a reasonable Congressional guideline.

Currently, the FPI produces more than 85 different products and services and in 1994 sold approximately \$392 million worth of goods and services to the federal government, causing it to be ranked 54th among the "Top 100 Federal Contractors." Additionally, we understand that in order to accommodate the growth in the prison population, FPI is planning to expand its sales. The Chamber supports the National Performance Review recommendation that the FPI's status as a mandatory source be eliminated and that FPI be required to compete commercially for federal business.

-2-

We pledge to work closely with you and other members of the Senate and House to ensure passage of prison industries reform legislation to eliminate the FPI required source of supply requirement and to open these government contracts to fair competition from the private sector.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Bruce Josten', written in a cursive style.

R. Bruce Josten

cc: Representative Peter Hoekstra
Representative Michael Collins
Senator Carl Levin
Senator Spencer Abraham



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

ADMINISTRATOR
OFFICE OF
INFORMATION AND
REGULATORY AFFAIRS

MAR 22 1996

The Honorable Jan Meyers
Chair, Committee on Small Business
U.S. House of Representatives
Washington, DC 20515

Dear Madam Chair:

On January 24, 1996, you wrote to me regarding a December 19, 1995 letter from the Board of Federal Prison Industries (FPI) to a representative of the Quarters Furniture Manufacturers Association (QFMA). You asked us to evaluate the FPI letter, which you believed to be a "bootleg" collection of information, to determine whether the Board should have submitted it to the Office of Management and Budget (OMB) for review and approval under the Paperwork Reduction Act of 1995 (PRA).

Thank you for bringing this matter to our attention. In response to your request, my staff forwarded this FPI letter to the Department of Justice PRA Clearance Officer, and discussed it with him and others in the Department. As a result of these discussions, we received the enclosed March 21, 1996 letter from the Department's PRA Clearance Officer.

In his letter, the Department's PRA Clearance Officer states that "the issue concerning QFMA appears now to be moot (in that there is no pending information request)." However, since "the question of the PRA's applicability to FPI's information-gathering efforts is likely to be a recurring one," the PRA Clearance Officer states that "in order to fully comply [with] the PRA, the FPI will seek authorization from OMB to collect information in connection with all future information gathering efforts" of this kind. We are pleased that Federal Prison Industries will in the future submit such collections of information to OMB for PRA review.

Thank you again for your letter. If I can be of any other assistance in this matter, please let me know.

Sincerely,

Sally Katzen

Enclosure

JAN MEYERS, KANSAS
Chair

JOHN J. LAFALCE, NEW YORK

Congress of the United States
House of Representatives

104th Congress

Committee on Small Business

2501 Rayburn House Office Building
Washington, DC 20515-6115

January 24, 1996

Ms. Sally Katzen, Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget
Old Executive Office Building, Room 350
Washington, DC 20503

Dear Administrator Katzen:

Recently, representatives of the Quarters Furniture Manufacturers Association (QFMA) brought to my attention what I believe to be a "bootleg" collection of information by the Board of Federal Prison Industries. A copy of the request, which takes the form of a letter from the Chairman of the Board, Mr. Joseph Aragon, to Mr. Stephen Ryan, a representative of QMFA, is attached.

As you know, "bootleg" collections of information are specifically prohibited by provisions of the Paperwork Reduction Act (44 U.S.C. 35) and are subject to the scope of the "Public Protection" section of of the law. (§3512.)

Pursuant to §3517(b) of the Paperwork Reduction Act, I request you review this collection of information and take appropriate remedial action. I would appreciate being informed of the results of your review and actions.

I have also attached a copy of a letter from Mr. Ryan to the Board which predates the Board's request. It indicates the effort by QFMA to bring to the Board's attention the significance of the Paperwork Reduction Act to their stated need for information. Viewed together, I believe the letters highlight the importance of your review to the integrity of the Paperwork Reduction Act.

Thank you for your attention to this matter.

Sincerely,


Chair

Attachments:

Attachment:



U.S. Department of Justice
UNICOR
 Federal Prison Industries, Inc.

Washington, DC 20534
 December 19, 1995

COPY

Stephen M. Ryan, Esquire
 Brand, Lowell & Ryan
 923 Fifteenth Street, NW.
 Washington, DC 20005

Dear Mr. Ryan:

Pursuant to our discussion during your oral presentation to the Board on December 7, the Board asks that you provide information in response to the six questions set out below. We understand that certain of these questions may have been previously addressed, but it will help us to have full and latest information.


The Board understands that certain information may be considered by QFMA to be of a proprietary nature and therefore confidential. As the Board would prefer individualized rather than aggregated information wherever possible, perhaps the names of companies or individuals could be replaced by coded numerical or alphabetical identifiers, which show large versus small business, to which an appropriate representative of QFMA has the key to the code.

1. What were the total annual sales for each of the QFMA companies from FY 1991 through 1995?
2. What was the dollar amount of sales, by company, for dorm and quarters furniture to the federal government, from FY 1991 through 1995?
3. What was the dollar amount of sales, by company, for D&Q to non-federal markets, from FY 1991 through 1995?
4. What was the dollar amount of sales, by company, for other than D&Q type furniture, federal and non-federal, from FY 1991 through 1995?
5. What were the total number of employees for each of the QFMA companies from FY 1991 through 1995, broken down if possible to employees engaged in the D&Q part of the business?

6. Indicate by company the amount of capital expenditures, if any, that were made during each of the last five fiscal years for upgrading or addition of equipment and/or facility improvements, that would result in an increase in space or output capability (excluding routine maintenance and normal replacement for wear and tear)?

I would appreciate it if you could provide this information to the Board within 10 days of receipt of this letter. Please forward it to Jan Synson, Ombudsman, Federal Prison Industries, 320 First Street, NW., Washington, DC 20534.

Sincerely,


 Joseph M. Aragon
 Chairman
 Board of Directors
 Federal Prison Industries

Attachment:

BRAND, LOWELL & RYAN

A PROFESSIONAL CORPORATION
923 FIFTEENTH STREET, N.W.
WASHINGTON, D.C. 20005

TELEPHONE: (202) 644-9700
TELECOPYER: (202) 737-7568

December 14, 1995

VIA FACSIMILE AND
FIRST CLASS MAIL

Mr. Joseph A. Aragon, Chairman
Members of the Board of Directors
Federal Prison Industries, Inc.
320 First Street, N. W.
Washington, D.C. 20534

Dear Mr. Aragon and Members of the Board:

During the Board's December 7, 1995 hearing you asked that we summarize for the Board all of QFMA's outstanding requests to FPI staff for documents and information relating to FPI's past and proposed expansions in the dorm and quarters furniture market. You stated that we were to provide that summary to you no later than December 14, 1995, through Jan Hynson, the FPI Ombudsman. You also stated that we would have ten (10) days from the date we receive the information and documents requested from FPI in which to submit comments on them to the Board. We understand that the ten-day clock will begin to run when we receive written assurance from you or FPI that staff have completed their search and that no additional responsive documents can be found.

The following is the summary you requested.

I. The Actual FPI Inputs and Production

A. A chart for each factory that produces dorm and quarters furniture indicating:

- (1) Date desk and quarters furniture production commenced;
- (2) Date of any capacity expansion;
- (3) For each dorm and quarters plant for the years 1988-1995, any and all proposed or actual increases in:
 - a. space,
 - b. equipment, or
 - c. personnel

BRAND, LOWELL & RYAN

Mr. Joseph A. Aragon, Chairman
 Members of the Board of Directors
 December 14, 1995
 Page 2

(4) All of the contemporaneous documents that are utilized to prepare the chart.

We made this request to Mr. Kirschbaum by telephone on December 4, 1995. Mr. Kirschbaum denied or at least sought to put off our request by letter of December 5, 1995 (Attachment A) on the ground that "this will involve the compilation of data not readily available." We believe this is a telling admission. If FPI does not maintain this data in a readily available form, there would be no way for FPI to determine when and if its "Substantial Expansion" guidelines are about to be triggered. If that is in fact true, it would constitute an admission that FPI is not complying with its guidelines nor its statute.

Mr. Kirschbaum provided a single snap shot of data, i.e. the total number of employees at Leavenworth for the years 1991 and 1992 (Attachment B). This bit of data is responsive but completely inadequate for the following reasons:

- (a) It does not break out employees producing dorm and quarters furniture.
- (b) It relates only to 1991 and 1992, and does not include data requested for 1988, 1989, 1990, 1993, 1994 or 1995.
- (c) It provides no data regarding increases in space or equipment for any of the years 1988-1995; and
- (d) Looked at alone, it raises the concern that FPI consciously manipulated its regulations by constantly adding inputs, but not so much in any given year as to trigger the guidelines. (See our subsequent discussion relating to the Talladega plant.)

B. All contemporaneous FPI documents relating to FPI's annual evaluation of its share of the dorm and quarters market for the years 1988-1995, including but not limited to writings of any kind that relate to any proposed or actual increases in space, equipment or personnel in this market.

This request was made to Mr. Kirschbaum in our letter of November 16, 1995 and in our December 4 telephone call. In response, Mr. Kirschbaum provided us a single memorandum dated March 4, 1994 (Attachment C), dealing only with the conversion

BRAND, LOWELL & RYAN

Mr. Joseph A. Aragon; Chairman
Members of the Board of Directors
December 14, 1995
Page 3

of the Talladega plant to a dorm and quarters facility. No documents were produced regarding any other dorm and quarters plant.

The March 4, 1994 memorandum is noteworthy in several important respects:

- (a) It concedes that refitting a factory to produce a different product triggers the "new factory" prong of the guidelines.
- (b) It concedes that FPI had knowledge that the dorm and quarters market was shrinking.
- (c) It shows that FPI was, and presumably is still, making deliberate decisions to manipulate production levels at its various factories in an effort to avoid triggering the guidelines. You will note it proposes certain increases that will not trigger the guidelines.

This document confirms the violations of statute complained of regarding the Talladega factory, and implicitly the Sheridan factory.

3. All FPI documents analyzing how Sheridan's beginning production in 1991 can be reconciled with FPI's statute and Substantial Expansion guidelines. This request was made in our letter of November 16, 1995. Since FPI has subsequently stated that other plants were responsible for some or all of the 1991-1993 increase, we ask that the same documentation also be provided for FCI Leavenworth, Marianna, Talladega and any other facility that produced dorm and quarters furniture from 1988-1995.

4. We request a definitive statement from FPI as to whether its actions in the dorm and quarters market are consistent with its statutory and regulatory requirements for the 1988-95 time period.

II. FPI'S PAST CALCULATIONS OF THE GOVERNMENT MARKET FOR DORM AND QUARTERS FURNITURE

We also wish to submit for the record at this time a revised version of the chart presented to the Board on December 7 and to request related documents (Attachment D). The revised version makes clear that the dorm and quarters market numbers were those:

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previously produced to us by FPI. QFMA members had long tried to persuade FPI that these figures were baseless. FPI conceded their inaccuracy in the Spring of 1995. Rather than \$180 million in fiscal 1994, FPI ultimately was forced to concede that the market was in fact approximately \$85.5 million. We put FPI's inaccurate figures before the Board on this chart to show that FPI's own figures clearly required FPI to invoke its guideline procedures in 1991 and 1992.

Upon information and belief, the inaccurate figures were compiled by Jim Haggerty, FPI's former Planning, Research and Activation Branch Manager. Mr. Haggerty told our members that he arrived at his sales figures by doubling the sales reported to the government to account for that had not reported. He said he then doubled the resulting figure to account for companies that report inaccurately, and doubled it again to account for sales under \$25,000. This methodology and the totals it produced had, of course, absolutely no basis in fact. We request the production of all documents which would demonstrate how Mr. Haggerty or anyone else at FPI arrived at this analysis, what inputs were used, etc.

III. Assertions QFMA Knew of FPI's Illegal Activity

In its submission to the Board of December 1, 1995, FPI states in pertinent part:

FPI sales information has been available to the D&Q industry since 1991. They did not pursue their 'administrative remedies' and should not be heard to now say that they are without a remedy.

We request production of all contemporaneous documents which demonstrate that this statement is true. FPI staff previously claimed they had provided the dorm and quarters sales information to QFMA members. When requested to provide the proof of this they could not do so. Now they have asserted a more pallid version of the refuted claim, saying it was "available." We believe the "availability" is irrelevant, and have no idea what "remedy" is being addressed. In any case, we believe FPI should demonstrate how the data was "available," other than by FOIA.

IV. Compliance With the Paperwork Reduction Act

We have previously raised the issue of FPI's apparent failure to comply with the Paperwork Reduction Act ("PRA"),

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42 U.S.C. § 3512 et. seq. The PRA requires any government body seeking information from the public, including the type of sales, employment, and other data the Board is interested in seeking from QFMA members, to meet the requirements of that statute. The PRA does not preclude such collection, but it does seek to minimize the burden of such requests. The Act requires that OMB's Office of Information and Regulatory Affairs grant clearance before collecting such information and requires that the government adopt the least intrusive way of obtaining this information. For example, the PRA would place the burden on FPI to collect all information available at GSA (see Mr. Ladensohn's and Mr. Pitchford's testimony), before requesting that the companies submit that information again to another government agency. Even though the right of the interested public to comment under 18 U.S.C. § 4122 is labeled as "voluntary," FPI's governing statute clearly contemplates that information will be collected from industry, and that the failure to produce information may result in the denial of a benefit, e.g. the right to sell furniture to the government, or the right to a reasonable market share. We respectfully request any document that would demonstrate that FPI is in compliance with the statute, or is exempted from the statute.

This issue has recently assumed additional importance. In a conversation with Mr. Kirschbaum on Wednesday, December 13, he indicated that FPI's staff had a renewed interest in obtaining the proprietary data of our clients. Mr. Kirschbaum appeared to us to say that it is QFMA's burden to prove that its members were directly injured by FPI's illegal actions. We disagree. It is of no legal consequence whether QFMA members' employment figures went down, stayed the same or even increased. We recognize no obligation to demonstrate the actual damage caused by the illegal diversion of \$35 million in sales to FPI that would otherwise have gone to our members, particularly since the FPI staff have not forthrightly acknowledged that they acted illegally.

VI. Briefings By FPI Staff

We request that the Board ensure that all substantive communications between FPI staff and the Board regarding this proposed substantial expansion be made in writing and be made part of the formal record of the Board's deliberative process. We request the production of all documents that reflect the existence of such calls or meetings.

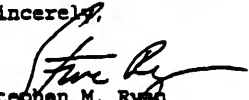
BRAND, LOWELL & RYAN

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VII. Conclusion

We appreciate the Board's decision to obtain necessary and relevant information required for its determination.

Sincerely,



Stephen M. Ryan
Eleanor M. Carey

SMR:EMC/lms

Enclosure

cc: Mr. Steve Schwalb, Director
Ira Kirschbaum, Esquire


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VII. Conclusion

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Sincerely,



Stephen M. Ryan
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Enclosure

cc: Mr. Steve Schwalb, Director
Ira Kirschbaum, Esquire

GENERAL ENGINEERING SERVICE, INC.

5020 OLD DIXIE HIGHWAY - P.O. BOX 1303
FOREST PARK, GEORGIA 30050

FAX 404/366-0657

PHONE 404/366-0651

07249601.TNG

July 26, 1996

Chairwoman Jan Meyers
Attn.: Jerry Shriner
Room 556
Ford House Office Building
Washington, D.C. 20515

Dear Chairwomen Meyers:

Thank you very much for providing me a copy of my comments made before your committee. I appreciate you allowing me to appear before your committee and present my views concerning the serious and destructive impact that the Federal Prison Industries is having on small business in this country.

If the FPI is allowed to continue to run wild through the small business DoD industrial base, that industrial base will surely be destroyed. I sincerely believe that you, your committee and your constituents are well on the way to providing the American public with some meaningful legislation that would fairly control the negative impact the Federal Prison Industries has on small business. I appreciate this opportunity to add a few additional comments and exhibits to my remarks made before The Committee on Small Business on 27 June 1996.

To Be Added:

The Federal Prison Industries is a growing and thriving business. In FY 1992 the Federal Prison Industries generated revenues of \$419,297,000 with a profit of \$20,022,000. In FY 1993 the Federal Prison Industries generated revenues of \$405,798,000 with a profit of \$10,658,000. In 1994 the Federal Prison Industries generated revenues of \$394,900,800 with a profit of \$10,192,815. For the FY 1995 the Federal Prison Industries generated revenues \$459,148,000 with a net income of \$13,818,000. This information also comes from the Federal Prison Industries annual report. A copy of the FPI annual report for the FY 1994 and 1995 results is provided to you to be incorporated into the congressional record. This annual report was furnished to me by the Federal Prison Industries. When you review the FY 1996 six months' sales report (a copy is enclosed for the Congressional record) the annualized revenue for FY 1996 will be in the \$500 million range. In the FY 1995 revenue report provided by the Federal Prison Industries you will see that the Federal Prison Industries generated \$459 million in sales revenue with 56.6% of the total revenue coming from the Department of Defense. In another words \$257,543,960 of the \$459,147,675 in revenue generated in 1995 came from the Department of Defense.

The Department of Defense is providing the majority of funding for the operations of the FPI or has the Department of Justice found a vehicle to siphon off Department of Defense dollars in order to offset the Department of Justice (FPI) costs. The Department of Defense appears to be funding more than its fair share of the Federal Prison Industries costs. The next provider is the General Service Administration at 12%. If you look at the six-month activity for FPI for FY 1996, you will see that the FPI took \$163,589,628 of the total \$249,340,461 in revenue from the Department of Defense. The DoD provided a total of 66% of the revenue that FPI took from Federal Agencies. Again, it appears that the Department of Defense is providing an unreasonable percentage of the revenue for the Federal Prison Industries.

The Federal Prison Industries now wants to take the missile and munition shipping and storage container business away from the small business industrial base. The DoD container business has traditionally been serviced by the small business and small disadvantaged manufactures. The FPI has officially completed the impact study required to enter a new market. The FPI had illegally entered the container market in 1991, long before any impact study was performed by FPI and long before the Board of Directors considered approving missile containers to be added to the FPI approved schedule of products.

Using the information from FPI's own impact study the firm, DelFasco, provided us with some interesting statistics concerning the size of firms that manufacture containers for the Department of Defense. For the operating period 1994, 97% of all containers produced were produced by small businesses. (Please refer to exhibit DL Fig.3 provided by DelFasco, Inc.) The FPI desperately wants to enter this market, but if they do they will force out some or all of the small businesses that manufacture containers for the Department of Defense.

There is no room in the container market for the Federal Prison Industries. Should FPI force its way into the container market, the small businesses will be put out of business. It is that simple. My firm, GESI, has invested millions of dollars in capital equipment, trained employees, and built facilities in order to develop and service our DoD container customers and now the FPI wants to take that customer for the inmates. Small business only wants the opportunity to compete on a level playing field with the Federal Prison Industries. We must not forget small business is the backbone of the American Economy.

Thank you very much for allowing GESI to make some additional comments.

Respectfully submitted,

GENERAL ENGINEERING SERVICE, INC.



Timothy N. Graves
Executive Vice President

cc: Honorable Congressman Mac Collins



U.S. Department of Justice

Federal Bureau of Prisons

Washington, DC 20534

Dear Sir/Madame:

In reponse to your request, inclosed is a copy of FPI's FY 1996 six-months sales report.

Sincerely,

Federal Prison Industries

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FY 1996 FPI SALES BY 7-DIGIT SIC PRODUCT CODE

SIC PRODUCT	PRODUCT DESCRIPTION	SALES	% OF TOTAL
2211F00	TERRY CLOTH MATERIAL	\$67,210	0.03%
2231925	BLANKETS, WOOL	1,889,637	0.76%
2273390	CARPETS & RUGS	3,452	0.00%
2321610	DRESS SHIRTS, MEN'S	506,263	0.20%
2322130	T-SHIRTS (MEN'S)	2,430	0.00%
2322230	UNDERSHIRTS/PAJAMAS, MEN'S	23,467	0.01%
2326100	UTILITY SHIRTS, MEN'S	769,675	0.31%
2326210	WORK PANTS/BDUs	4,639,370	1.86%
2326230	JUMPSUITS/OVERALLS	128,707	0.05%
2326250	MEDICAL CLOTHING	21,820	0.01%
2329110	BDU COATS	2,165,057	0.87%
2329310	ATHLETIC/SWIM TRUNKS	537,431	0.22%
2381300	GLOVES (FABRIC)	1,101,881	0.44%
2381400	GLOVES (LEATHER & FABRIC)	1,985,779	0.80%
2391021	SHOWER/CUBICLE/BERTH CURTAINS	48,103	0.02%
2391061	DRAPERIES	459,995	0.18%
2392114	BEDSPREADS	32,092	0.01%
2392228	SHEETS/PILLOWCASES	2,584,005	1.04%
2392310	TOWELS/WASHCLOTHS	3,639,738	1.46%
2392326	BATHMATS	112,162	0.04%
2392438	TABLECLOTHS/NAPKINS	56,963	0.02%
2393012	CANVAS DUFFLE BAGS	15,972	0.01%
2393013	MISC. BAGS, CANVAS	1,222,543	0.49%
2393091	DUFFLE BAGS, MAN-MADE FIBERS	3,142	0.00%
2393096	MISC. BAGS, MAN-MADE FIBERS	5,344,835	2.14%
2394053	TARPAULINS	60,673	0.02%
2394065	DROP CLOTHS/MAIL TUBS/HOLSTERS	2,305,182	0.92%
2396434	PRINTING ON APPAREL	1,081,704	0.43%
2399085	PARACHUTES/WINDSOCKS	220,519	0.09%
2499499	MISC. WOOD PRODUCTS	891,283	0.36%
2511219	CABINETS	490,643	0.20%
2511233	HOUSEHOLD CHAIRS	243,133	0.10%
2511241	TABLES	100,188	0.04%
2511251	DESKS	2,413,866	0.97%
2511271	BOOKCASES	412,139	0.17%
2511298	OTHER NON-UPHOL LIVING RM FURN	506,820	0.20%
2511511	BEDS	2,017,151	0.81%
2511513	HEADBOARDS	453,601	0.18%
2511515	BUNKBEDS	361,123	0.14%
2511521	DRESSERS	419,754	0.17%
2511533	WARDROBES	2,131,155	0.85%
2511535	CHEST OF DRAWERS	1,586,443	0.64%
2511561	NIGHT TABLES	691,112	0.28%
2514521	METAL CABINETS	242,782	0.10%
2514737	METAL BEDS	18,277	0.01%
2515100	MATTRESSES	3,768,440	1.51%
2515315	BOXSPRINGS	686,105	0.28%
2521013	OFFICE/DESK CHAIRS	1,034,083	0.41%
2521014	SIDE/ARM CHAIRS	3,147,208	1.26%
2521021	SWIVEL CHAIRS	110,303	0.04%
2521025	GANGING UNIT (SEATING)	116	0.00%

SIC PRODUCT	PRODUCT DESCRIPTION	SALES	% OF TOTAL
2521029	OFFICE SOFAS	\$1,995,454	0.80%
2521034	DESKS	4,878,647	1.96%
2521036	DESK EXTENSIONS	1,835,207	0.74%
2521041	CREDENZAS	2,306,788	0.93%
2521043	BOOKCASES/SHELVES	3,376,950	1.35%
2521045	VERTICAL FILES (WOOD)	1,704,382	0.68%
2521047	HORIZONTAL FILES (WOOD)	2,464,228	0.99%
2521054	FOLDING TABLES/COMPUTER STANDS	141,837	0.06%
2521055	CONFERENCE TABLES	878,916	0.35%
2521056	EQUIP/UTILITY/TYPING TABLES	287,131	0.12%
2521059	END/COFFEE TABLES	487,810	0.20%
2521093	OTHER WOOD OFFICE FURN	458,188	0.18%
2522109	NON-WOOD STACKING CHAIRS	1,544,932	0.62%
2522111	SEC/Y/ERGO NON-WOOD CHAIRS	1,940,244	0.78%
2522114	DESK/ERGO NON-WOOD CHAIRS	16,869,078	6.77%
2522115	NON-WOOD SIDE/ARM CHAIRS	1,422,539	0.57%
2522121	LOUNGE/SWIVEL NON-WOOD CHAIRS	4,149,704	1.66%
2522127	GANGING UNIT OR TANDEM SEATING	14,564	0.01%
2522129	SLED/OTHER NON-WOOD CHAIRS	1,079,567	0.43%
2522645	VERTICAL FILES (NON-WOOD)	5,330,821	2.14%
2522647	HORIZONTAL FILES (NON-WOOD)	586,873	0.24%
2522655	METAL OFFICE TABLES	120,861	0.05%
2522658	EQUIPMENT TABLES, NON-WOOD	132,381	0.05%
2522763	PANELS, OTHER	23,955,197	9.61%
2522765	WORK SURFACES, FREE STANDING	639,960	0.26%
2522767	WORK SURFACES, PANEL ATTACHED	2,697,644	1.08%
2522769	FILING/STORAGE/SHELVING COMP.	2,770,339	1.11%
2522773	WORK SURFACE MODULES	747,305	0.30%
2522798	OTHER NON-WOOD OFFICE FURNITURE	1,466,801	0.59%
2542233	METAL SHELVING	3,280,363	1.32%
2542251	LOCKERS	2,260,216	0.91%
2542343	CANTILEVER RACKS	1,214,816	0.49%
2542345	STACKING RACKS	594,244	0.24%
2542349	PALLET RACKS	2,839,543	1.14%
2542471	METAL CABINETS	2,511,354	1.01%
2599248	MISC. RESTAURANT EQUIPMENT	96,885	0.04%
2752220	LABELS, OTHER THAN PAPER/CLOTH	41,052	0.02%
2752312	CATALOGS/SHEET-FED	141,310	0.06%
2752416	REPORTS/MANUALS	1,467,075	0.59%
2752523	POSTERS	762	0.00%
2752636	CALENDARS, SHEET-FED	44,175	0.02%
2752638	CALENDARS, WEB-FED	706,145	0.28%
2752692	GOV'T/BUSINESS FORMS, SHEET-FED	2,185,810	0.88%
2752694	GOV'T/BUSINESS FORMS, WEB-FED	43,732	0.02%
2752698	OTHER SHEET-FED PRINTING	255,978	0.10%
2752699	GENERAL PRINTING	904,913	0.36%
2759825	DECALS	1,663,786	0.67%
2761200	UNIT SET FORMS	52,973	0.02%
3089A18	HELMETS	2,150,825	0.86%
3089290	BATTERY BOXES	397,588	0.16%
3151089	GLOVES (LEATHER)	2,181,580	0.87%
3357921	FIBER OPTIC CABLE ASSEMBLIES	308,639	0.12%
3399298	OTHER METAL PRODUCTS, N.E.C.	192	0.00%

SIC PRODUCT	PRODUCT DESCRIPTION	SALES	% OF TOTAL
3429253	CASTERS (INDUSTRIAL)	\$355,288	0.14%
3429414	LOCKS	50	0.00%
3429498	OTHER BUILDERS' HARDWARE	66,171	0.03%
3429899	TOOL KITS	128,533	0.05%
3444962	OTHER STEEL METAL WORK	617,662	0.25%
3446310	STEEL FLOORING	315,322	0.13%
3469959	WASTE CANS	53,429	0.02%
3479021	NAME TAGS	104,059	0.04%
3499899	MISC. FABRICATED METAL PROD.	575,407	0.23%
3621900	CABLE ASSEMBLIES	20,975	0.01%
3621995	CABLE ASSEMBLIES	16,549	0.01%
3646316	EXT. DROP LAMPS/LIGHT KITS	1,941,745	0.78%
3663151	ANTENNAS & RELATED EQUIPMENT	264,238	0.11%
3663198	RADIO MOUNTS/CABLE ASSEM.	20,156,053	8.08%
3678500	CONNECTORS	1,049,818	0.42%
3679920	CABLE ASSEMBLIES	20,411,318	8.19%
3694709	WIRING HARNESSSES	176,936	0.07%
3728198	CABLE ASSEMBLIES	11,997	0.00%
3732719	LIFE BOATS	144,333	0.06%
3761502	CABLE ASSEMBLIES	8,049	0.00%
3769219	CABLE ASSEMBLIES	9,062	0.00%
3795001	WIRING HARNESSSES	339,390	0.14%
3812211	WIRING HARNESSSES	716,526	0.29%
3842351	PROTECTIVE CLOTHING	13,988,905	5.61%
3851702	SAFETY GOGGLES	646,523	0.26%
3861813	LASER TONER CARTRIDGES	2,111,361	0.85%
3991198	BROOMS	486,826	0.20%
3991211	PAINT BRUSHES	1,645,553	0.66%
3991338	BRUSHES	723,825	0.29%
3993212	SIGNS, METAL, SCREEN PRINTED	250,619	0.10%
3993222	SIGNS, METAL, OTHER	226,535	0.09%
3993278	SIGNS, ARCHITECTURAL	1,631,256	0.65%
3999998	PLAQUES/SEALS	100,477	0.04%
5048000	PRESCRIPTION GLASSES	1,096,509	0.44%
SERVICES			
7218000	LAUNDRY SERVICES	\$1,176,118	0.47%
7331000	DISTRIBUTION SERVICES	145,171	0.06%
7371000	COMPUTER PROGRAMMING SERVICES	6,377	0.00%
7374000	DATA ENTRY SERVICES	106,394	0.04%
7378000	COMPUTER REPAIR SERVICES	9,475	0.00%
7379000	DATA CONVERSION/DIGITIZING SVCS	489,978	0.20%
7389000	ASSEMBLY SERVICES	1,684,339	0.68%
7539000	ELECTRICAL REPAIR SERVICES	5,667,996	2.27%

SIC SERVICE	SERVICE DESCRIPTION	SALES	% OF TOTAL
7629000	FORKLIFT REPAIR SERVICES	\$65,924	0.03%
7641000	FURNITURE REFINISHING SERVICES	815,217	0.33%
7699000	MISCELLANEOUS REPAIR SERVICES	2,222,774	0.89%
FY 1996 FPI SALES TO GOV'T AGENCIES		\$247,164,898	99.13%
FY 1996 FPI SUBCONTRACTING ACTIVITIES		\$1,441,731	0.58%
SHIPPING CHARGES		733,832	0.29%
TOTAL FY 1996 FPI SALES		\$249,340,461	100.00%

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FY 1996 FPI SALES
BY 4-DIGIT FSC CODE AND CUSTOMER

FSC CLASS -----	CLASS DESCRIPTION & CUSTOMER AGENCY -----	SALES -----
1430	GUIDED MISSILE REMOTE CONTROL SYSTEMS	
	DEPARTMENT OF DEFENSE	\$9,062
2590	MISCELLANEOUS VEHICULAR COMPONENTS	
	DEPARTMENT OF DEFENSE	\$339,390
2920	ENGINE ELECTRICAL COMPONENTS	
	DEPARTMENT OF DEFENSE	\$176,936
3040	MISC. POWER TRANSMISSION EQUIPMENT	
	DEPARTMENT OF DEFENSE	\$4,349
3990	MISC. MATERIALS HANDLING EQUIPMENT	
	DEPARTMENT OF DEFENSE	\$552,209
	BUREAU OF PRISONS	16,190
	DEPARTMENT OF JUSTICE	11,507
	DEPARTMENT OF AGRICULTURE	3,709
	DEPARTMENT OF TRANSPORTATION	1,087
		\$584,702
4220	MARINE LIFESAVING EQUIPMENT	
	DEPARTMENT OF DEFENSE	\$144,333
4240	SAFETY/RESCUE EQUIPMENT	
	GENERAL SERVICES ADMINISTRATION	\$470,521
	DEPARTMENT OF DEFENSE	130,622
	BUREAU OF PRISONS	22,609
	DEPARTMENT OF JUSTICE	10,433
	DEPARTMENT OF TREASURY	3,691
	DEPARTMENT OF INTERIOR	3,046
	DEPARTMENT OF AGRICULTURE	2,285
	DEPARTMENT OF VETS AFFAIRS	1,880
	DEPARTMENT OF HHS	663
	DEPARTMENT OF LABOR	402
	NAT. AERONAUTICS & SPACE ADMIN.	227
	DEPARTMENT OF TRANSPORTATION	144
		\$646,523
4920	AIRCRAFT MAINT. EQUIPMENT	
	DEPARTMENT OF DEFENSE	\$11,997

4935	GUIDED MISSILE MAINTENANCE EQUIPMENT		
	DEPARTMENT OF DEFENSE		\$8,049
5140	TOOL/HARDWARE BOXES/BAGS		
	GENERAL SERVICES ADMINISTRATION	\$296,116	
	BUREAU OF PRISONS	384	
	DEPARTMENT OF INTERIOR	288	
		-----	\$296,788
5180	TOOL KITS		
	DEPARTMENT OF DEFENSE		\$128,533
5340	MISCELLANEOUS HARDWARE		
	GENERAL SERVICES ADMINISTRATION	\$271,222	
	BUREAU OF PRISONS	54,519	
	DEPARTMENT OF DEFENSE	29,373	
	DEPARTMENT OF TRANSPORTATION	112	
	OTHER AGENCIES	112	
		-----	\$355,338
5810	COMMUNICATIONS SECURITY EQUIP.		
	DEPARTMENT OF DEFENSE		\$1,585,789
5820	RADIO AND TV EQUIPMENT		
	DEPARTMENT OF DEFENSE		\$1,680,077
5821	RADIO AND TV EQUIPMENT, AIRBORNE		
	DEPARTMENT OF DEFENSE		\$28,004
5855	NIGHT VISION EQUIPMENT		
	DEPARTMENT OF DEFENSE		\$716,526
5895	MISC COMMUNICATIONS EQUIPMENT		
	DEPARTMENT OF DEFENSE		\$1,823,747
5935	CONNECTORS, ELECTRICAL		
	DEPARTMENT OF DEFENSE		\$1,049,818
5965	HEADSETS/MICROPHONES/SPEAKERS		
	DEPARTMENT OF DEFENSE		\$3,236,486

5975	ELECTRICAL HARDWARE		
	DEPARTMENT OF DEFENSE		\$2,653,432
5985	ANTENNAS & RELATED EQUIPMENT		
	DEPARTMENT OF DEFENSE		\$264,238
5995	COMMUNICATIONS - CABLE/WIRE ASSEMBLIES		
	DEPARTMENT OF DEFENSE		\$11,795,730
5998	ELECTRICAL BOARDS/CARDS/HARDWARE		
	DEPARTMENT OF DEFENSE		\$212,463
5999	MISCELLANEOUS ELECTRONIC COMPONENTS		
	DEPARTMENT OF DEFENSE	\$5,110,791	
	BUREAU OF PRISONS	170,968	
		-----	\$5,281,759
6020	FIBER OPTIC CABLE ASSEMBLIES		
	DEPARTMENT OF DEFENSE		\$308,639
6110	ELECTRICAL CONTROL EQUIPMENT		
	DEPARTMENT OF DEFENSE		\$20,975
6130	NONROTATING ELECTRICAL CONVERTERS		
	DEPARTMENT OF DEFENSE		\$16,549
6135	BATTERY BOXES		
	DEPARTMENT OF DEFENSE		\$397,588
6145	WIRE/CABLES, ELECTRICAL		
	DEPARTMENT OF DEFENSE		\$2,364,880
6150	MISC. ELECTRICAL POWER DIST. EQUIP.		
	DEPARTMENT OF DEFENSE	\$9,764,562	
	GENERAL SERVICES ADMINISTRATION	131,842	
	BUREAU OF PRISONS	4,251	
		-----	\$9,900,655
6230	ELEC. PORTABLE LIGHTING EQUIP.		
	DEPARTMENT OF DEFENSE	\$1,754,234	
	GENERAL SERVICES ADMINISTRATION	187,511	
		-----	\$1,941,745

6532 HOSPITAL/SURGICAL CLOTHING

DEPARTMENT OF DEFENSE	\$33,781
BUREAU OF PRISONS	9,155
DEPARTMENT OF VETS AFFAIRS	2,351

\$45,287

6540 OPTICAL INSTRUMENTS/EQUIPMENT

DEPARTMENT OF VETS AFFAIRS	\$390,063
BUREAU OF PRISONS	316,171
DEPARTMENT OF DEFENSE	302,677
DEPARTMENT OF INTERIOR	25,934
DEPARTMENT OF TRANSPORTATION	15,576
DEPARTMENT OF AGRICULTURE	15,194
DEPARTMENT OF TREASURY	7,606
DEPARTMENT OF LABOR	7,100
DEPARTMENT OF JUSTICE	3,697
DEPARTMENT OF ENERGY	3,038
DEPARTMENT OF HHS	2,483
GENERAL SERVICES ADMINISTRATION	2,432
NUCLEAR REGULATORY COMMISSION	1,019
FEDERAL EMERGENCY MGMT. AGENCY	1,743
ENVIRONMENTAL PROTECTION AGENCY	970
NAT. AERONAUTICS & SPACE ADMIN.	400
U.S. POSTAL SERVICE	340
DEPARTMENT OF COMMERCE	66

\$1,096,509

6660 METEOROLOGICAL INSTRUMENTS

DEPARTMENT OF COMMERCE	\$125,174
DEPARTMENT OF DEFENSE	93,755
NAT. AERONAUTICS & SPACE ADMIN.	1,590

\$220,519

7105 HOUSEHOLD FURNITURE

DEPARTMENT OF DEFENSE	\$11,381,271
GENERAL SERVICES ADMINISTRATION	329,526
DEPARTMENT OF TRANSPORTATION	193,692
BUREAU OF PRISONS	80,807
DEPARTMENT OF AGRICULTURE	59,910
DEPARTMENT OF VETS AFFAIRS	23,939
DEPARTMENT OF INTERIOR	11,430
NAT. AERONAUTICS & SPACE ADMIN.	3,816
DEPARTMENT OF JUSTICE	1,969
DEPARTMENT OF HHS	1,161
ENVIRONMENTAL PROT. AGENCY	411
DEPARTMENT OF TREASURY	255

\$12,088,187

7110 OFFICE FURNITURE

DEPARTMENT OF DEFENSE	\$54,504,246
DEPARTMENT OF HHS	14,561,891
GENERAL SERVICES ADMINISTRATION	4,848,211
DEPARTMENT OF TRANSPORTATION	3,285,104
BUREAU OF PRISONS	3,266,739
DEPARTMENT OF JUSTICE	3,088,889
DEPARTMENT OF TREASURY	2,304,213
DEPARTMENT OF VETS AFFAIRS	1,440,550
DEPARTMENT OF AGRICULTURE	1,035,371
DEPARTMENT OF INTERIOR	755,239
ENVIRONMENTAL PROTECTION AGENCY	457,048
DEPARTMENT OF HUD	384,830
DEPARTMENT OF STATE	257,729
DEPARTMENT OF ENERGY	91,994
FEDERAL EMERGENCY MGMT. AGENCY	66,057
NAT. AERONAUTICS & SPACE ADMIN.	65,820
DEPARTMENT OF COMMERCE	60,193
U.S. COURTS	57,688
NUCLEAR REGULATORY COMMISSION	12,863
U.S. POSTAL SERVICE	11,053
DEPARTMENT OF LABOR	5,191
OFFICE OF PERSONNEL MGMT.	5,159
PANAMA CANAL COMMISSION	3,724
EQUAL EMPLOYMENT OPPORTUNITY COMM.	2,887
EXECUTIVE OFFICE OF THE PRESIDENT	2,002
AGENCY FOR INTERNATIONAL DEVELOPMENT	954
DEPARTMENT OF EDUCATION	413

\$90,576,058

7125 CABINETS/LOCKERS/SHELVING

GENERAL SERVICES ADMINISTRATION	\$5,640,947
DEPARTMENT OF DEFENSE	5,009,498
BUREAU OF PRISONS	515,051
DEPARTMENT OF HHS	496,726
DEPARTMENT OF JUSTICE	274,427
DEPARTMENT OF TRANSPORTATION	178,555
DEPARTMENT OF LABOR	93,200
FEDERAL EMERGENCY MGMT. AGENCY	55,060
DEPARTMENT OF INTERIOR	51,658
DEPARTMENT OF TREASURY	41,351
DEPARTMENT OF AGRICULTURE	37,545
DEPARTMENT OF VETS AFFAIRS	35,926
DEPARTMENT OF ENERGY	20,211
U.S. POSTAL SERVICE	17,896
PANAMA CANAL COMMISSION	12,378
U.S. INFORMATION AGENCY	11,300
DEPARTMENT OF STATE	4,433
DEPARTMENT OF HUD	523
EQUAL EMPLOYMENT OPPORTUNITY COMM.	470
U.S. COURTS	364

\$12,497,519

7195 MISC. FURNITURE/FIXTURES

BUREAU OF PRISONS	\$646,418
DEPARTMENT OF DEFENSE	196,515
GENERAL SERVICES ADMINISTRATION	70,569
DEPARTMENT OF VETS AFFAIRS	61,000
U.S. COURTS	4,178
DEPARTMENT OF JUSTICE	3,247
FEDERAL EMERGENCY MGMT. AGENCY	2,437
DEPARTMENT OF TRANSPORTATION	2,341
DEPARTMENT OF INTERIOR	1,804
DEPARTMENT OF AGRICULTURE	1,250
DEPARTMENT OF STATE	1,102
DEPARTMENT OF TREASURY	791
ENVIRONMENTAL PROTECTION AGENCY	696
DEPARTMENT OF HHS	414
DEPARTMENT OF LABOR	48
OTHER AGENCIES	16,428

\$1,009,238

7210 HOUSEHOLD FURNISHINGS

DEPARTMENT OF DEFENSE	\$5,988,425
GENERAL SERVICES ADMINISTRATION	4,386,091
DEPARTMENT OF VETS AFFAIRS	1,056,971
BUREAU OF PRISONS	1,000,586
DEPARTMENT OF TRANSPORTATION	172,901
DEPARTMENT OF JUSTICE	71,867
DEPARTMENT OF TREASURY	66,300
DEPARTMENT OF INTERIOR	16,530
DEPARTMENT OF AGRICULTURE	8,440
DEPARTMENT OF STATE	3,901
DEPARTMENT OF EDUCATION	335
DEPARTMENT OF HHS	148
NAT. AERONAUTICS & SPACE ADMIN.	99

\$12,772,594

7230 DRAPERIES/AWNINGS/SHADES

DEPARTMENT OF DEFENSE	\$428,261
DEPARTMENT OF VETS AFFAIRS	71,949
DEPARTMENT OF TRANSPORTATION	4,139
BUREAU OF PRISONS	1,916
DEPARTMENT OF AGRICULTURE	1,833

\$508,098

7240 HOUSEHOLD/COMMERCIAL CONTAINERS

U.S. POSTAL SERVICE	\$2,138,624
GENERAL SERVICES ADMINISTRATION	55,986
DEPARTMENT OF DEFENSE	4,614
DEPARTMENT OF AGRICULTURE	237

\$2,199,461

7310	FOOD SERVICE EQUIPMENT		
	DEPARTMENT OF DEFENSE		\$40,303
7320	FOOD CARTS		
	BUREAU OF PRISONS	\$16,874	
	DEPARTMENT OF JUSTICE	5,019	
	DEPARTMENT OF DEFENSE	1,781	
	DEPARTMENT OF AGRICULTURE	743	
		-----	\$24,417
7330	KITCHEN UTENSILS		
	BUREAU OF PRISONS	\$10,677	
	DEPARTMENT OF DEFENSE	2,100	
		-----	\$12,777
7510	OFFICE SUPPLIES		
	GENERAL SERVICES ADMINISTRATION	\$865,038	
	DEPARTMENT OF DEFENSE	686,380	
	DEPARTMENT OF JUSTICE	481,534	
	BUREAU OF PRISONS	378,822	
	DEPARTMENT OF TRANSPORTATION	118,215	
	DEPARTMENT OF AGRICULTURE	91,210	
	DEPARTMENT OF TREASURY	76,757	
	U.S. INFORMATION AGENCY	49,778	
	DEPARTMENT OF ENERGY	22,250	
	NAT. AERONAUTICS & SPACE ADMIN.	20,579	
	DEPARTMENT OF VETS AFFAIRS	17,264	
	DEPARTMENT OF INTERIOR	17,257	
	DEPARTMENT OF HHS	7,760	
	U.S. POSTAL SERVICE	2,322	
	NUCLEAR REGULATORY COMMISSION	1,266	
	DEPARTMENT OF LABOR	1,216	
	ENVIRONMENTAL PROTECTION AGENCY	508	
	DEPARTMENT OF EDUCATION	143	
	OTHER AGENCIES	23,382	
		-----	\$2,861,681

7520 OFFICE ACCESSORIES

GENERAL SERVICES ADMINISTRATION	\$295,244
DEPARTMENT OF DEFENSE	216,398
BUREAU OF PRISONS	1,923
DEPARTMENT OF JUSTICE	1,158
DEPARTMENT OF TRANSPORTATION	1,045
DEPARTMENT OF STATE	715
DEPARTMENT OF HHS	576
DEPARTMENT OF INTERIOR	387
DEPARTMENT OF AGRICULTURE	329
DEPARTMENT OF VETS AFFAIRS	192
DEPARTMENT OF TREASURY	136
DEPARTMENT OF LABOR	62
FEDERAL EMERGENCY MGMT. AGENCY	47
U.S. COURTS	47
ENVIRONMENTAL PROTECTION AGENCY	47
OTHER AGENCIES	789

\$519,095

7530 STATIONERY/RECORD FORMS

U.S. COURTS	\$540,274
BUREAU OF PRISONS	317,208
DEPARTMENT OF JUSTICE	308,342
GENERAL SERVICES ADMINISTRATION	108,369
DEPARTMENT OF COMMERCE	100,000
DEPARTMENT OF AGRICULTURE	66,251
DEPARTMENT OF DEFENSE	10,313
DEPARTMENT OF HHS	9,853
U.S. POSTAL SERVICE	8,960
FEDERAL COMMUNICATIONS COMMISSION	4,221
DEPARTMENT OF TRANSPORTATION	4,051
OFFICE OF PERSONNEL MANAGEMENT	3,450
THRIFT INVESTMENT BOARD	2,607
DEPARTMENT OF INTERIOR	1,972
DEPARTMENT OF HUD	1,580
DEPARTMENT OF VETS AFFAIRS	1,396
SMALL BUSINESS ADMINISTRATION	793
OTHER AGENCIES	8,065

\$1,497,705

7540 STANDARD FORMS

BUREAU OF PRISONS	\$79,433
DEPARTMENT OF TREASURY	43,732
DEPARTMENT OF DEFENSE	25,655
GENERAL SERVICES ADMINISTRATION	17,889
U.S. COURTS	3,393
DEPARTMENT OF TRANSPORTATION	2,783
U.S. POSTAL SERVICE	685
OTHER AGENCIES	8,046

\$181,616

7690 MISC. PRINTED MATTER

BUREAU OF PRISONS	\$822,157
DEPARTMENT OF DEFENSE	796,823
DEPARTMENT OF INTERIOR	329,010
DEPARTMENT OF JUSTICE	250,221
GENERAL SERVICES ADMINISTRATION	213,203
DEPARTMENT OF AGRICULTURE	133,029
DEPARTMENT OF TRANSPORTATION	91,039
DEPARTMENT OF VETS AFFAIRS	53,505
DEPARTMENT OF STATE	43,523
U.S. COURTS	17,183
DEPARTMENT OF HHS	9,652
U.S. POSTAL SERVICE	7,999
DEPARTMENT OF COMMERCE	4,845
DEPARTMENT OF TREASURY	3,159
DEPARTMENT OF ENERGY	2,760
FEDERAL EMERGENCY MGMT. AGENCY	620
NUCLEAR REGULATORY COMMISSION	67
NATIONAL SCIENCE FOUNDATION	36
OTHER AGENCIES	48,977

\$2,827,808

7920 BROOMS, BRUSHES, MOPS

GENERAL SERVICES ADMINISTRATION	\$1,210,100
DEPARTMENT OF VETS AFFAIRS	393
OTHER AGENCIES	158

\$1,210,651

8020 PAINT/ARTIST'S BRUSHES

GENERAL SERVICES ADMINISTRATION	\$1,644,094
BUREAU OF PRISONS	1,172
DEPARTMENT OF DEFENSE	287

\$1,645,553

8105 BAGS AND SACKS

U.S. POSTAL SERVICE	\$4,569,837
DEPARTMENT OF AGRICULTURE	22,230
BUREAU OF PRISONS	16,427
DEPARTMENT OF DEFENSE	5,000

\$4,613,494

8140 AMMUNITION/ORDNANCE PACKAGING

DEPARTMENT OF DEFENSE	\$573,712
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8305 TEXTILE FABRICS

GENERAL SERVICES ADMINISTRATION	\$67,210
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8340 TENTS AND TARPAULINS

GENERAL SERVICES ADMINISTRATION	\$217,646
BUREAU OF PRISONS	2,177

\$219,823

8405 OUTERWEAR, MEN'S

DEPARTMENT OF DEFENSE	\$1,073,746
BUREAU OF PRISONS	519,654
DEPARTMENT OF AGRICULTURE	1,981

\$1,595,381

8415 CLOTHING, SPECIAL PURPOSE

DEPARTMENT OF DEFENSE	\$16,888,393
GENERAL SERVICES ADMINISTRATION	3,683,571
BUREAU OF PRISONS	1,068,352
DEPARTMENT OF TREASURY	161,411
DEPARTMENT OF AGRICULTURE	29,565
DEPARTMENT OF INTERIOR	23,286
DEPARTMENT OF JUSTICE	18,123
DEPARTMENT OF TRANSPORTATION	1,334
DEPARTMENT OF HHS	537
DEPARTMENT OF VETS AFFAIRS	432
U.S. POSTAL SERVICE	238
OTHER AGENCIES	79

\$21,875,321

8455 BADGES & INSIGNIA

DEPARTMENT OF DEFENSE	\$48,050
BUREAU OF PRISONS	24,936
DEPARTMENT OF JUSTICE	12,721
DEPARTMENT OF TRANSPORTATION	4,026
DEPARTMENT OF INTERIOR	3,274
NUCLEAR REGULATORY COMMISSION	1,390
DEPARTMENT OF TREASURY	656
DEPARTMENT OF AGRICULTURE	571
DEPARTMENT OF HHS	387
GENERAL SERVICES ADMINISTRATION	354
DEPARTMENT OF EDUCATION	275
DEPARTMENT OF VETS AFFAIRS	71
U.S. INFORMATION AGENCY	36
DEPARTMENT OF STATE	29
OTHER AGENCIES	7,283

\$104,059

8465	INDIVIDUAL EQUIPMENT		
	DEPARTMENT OF DEFENSE	\$717,886	
	BUREAU OF PRISONS	38,024	
		-----	\$755,910
8470	ARMOR, PERSONAL		
	DEPARTMENT OF DEFENSE	\$7,173,803	
	BUREAU OF PRISONS	424,840	
	DEPARTMENT OF JUSTICE	8,858	
		-----	\$7,607,501
9520	STRUCTURAL IRON/STEEL		
	BUREAU OF PRISONS		\$1,695
9905	SIGNS, ADVERTISING DISPLAYS		
	DEPARTMENT OF VETS AFFAIRS	\$966,871	
	DEPARTMENT OF DEFENSE	633,272	
	GENERAL SERVICES ADMINISTRATION	210,406	
	DEPARTMENT OF INTERIOR	172,490	
	BUREAU OF PRISONS	131,687	
	DEPARTMENT OF JUSTICE	25,386	
	DEPARTMENT OF TRANSPORTATION	22,374	
	DEPARTMENT OF AGRICULTURE	10,437	
	NUCLEAR REGULATORY COMMISSION	8,933	
	DEPARTMENT OF STATE	5,559	
	U.S. COURTS	5,361	
	U.S. INFORMATION AGENCY	5,129	
	DEPARTMENT OF COMMERCE	1,999	
	U.S. POSTAL SERVICE	1,759	
	NAT. AERONAUTICS & SPACE ADMIN.	701	
	DEPARTMENT OF HHS	458	
	DEPARTMENT OF ENERGY	193	
	SECURITIES & EXCHANGE COMMISSION	169	
	DEPARTMENT OF LABOR	30	
	OTHER AGENCIES	5,673	
		-----	\$2,208,887
D303	ADP DATA ENTRY SERVICES		
	BUREAU OF PRISONS		\$2,325
D308	COMPUTER PROGRAMMING SERVICES		
	DEPARTMENT OF ENERGY	\$4,052	
	DEPARTMENT OF DEFENSE	2,000	
	BUREAU OF PRISONS	225	
	DEPARTMENT OF COMMERCE	100	
		-----	\$6,377

D311 DATA CONVERSION SERVICES

GENERAL SERVICES ADMINISTRATION	\$154,325
BUREAU OF PRISONS	38,845
DEPARTMENT OF DEFENSE	22,149
DEPARTMENT OF COMMERCE	15,425
DEPARTMENT OF ENERGY	14,151
FEDERAL TRADE COMMISSION	12,703
DEPARTMENT OF HHS	12,245
NUCLEAR REGULATORY COMMISSION	6,893
DEPARTMENT OF INTERIOR	6,180
SECURITIES & EXCHANGE COMMISSION	2,747
NAT. ARCHIVES & RECORDS ADMIN.	1,217

\$286,880

D312 OPTICAL SCANNING SERVICES

DEPARTMENT OF DEFENSE	\$73,710
BUREAU OF PRISONS	15,054
NUCLEAR REGULATORY COMMISSION	5,760
SMITHSONIAN INSTITUTE	3,859
DEPARTMENT OF ENERGY	3,792
DEPARTMENT OF TRANSPORTATION	1,894

\$104,069

D315 DIGITIZING SERVICES

DEPARTMENT OF DEFENSE	\$193,585
DEPARTMENT OF COMMERCE	8,400
BUREAU OF PRISONS	1,028
DEPARTMENT OF ENERGY	85

\$203,098

J023 GROUND VEHICLE REPAIR SERVICES

DEPARTMENT OF DEFENSE	\$313,388
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J051 KIT ASSEMBLY SERVICES

DEPARTMENT OF DEFENSE	\$505,659
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J071 FURNITURE REPAIR SERVICES

DEPARTMENT OF DEFENSE	\$342,220
BUREAU OF PRISONS	124,863
MERIT SYSTEMS PROTECTION BOARD	75,682
DEPARTMENT OF JUSTICE	70,538
DEPARTMENT OF HHS	69,080
DEPARTMENT OF AGRICULTURE	52,398
DEPARTMENT OF HUD	50,771
THRIFT INVESTMENT BOARD	10,146
GENERAL SERVICES ADMINISTRATION	5,401
DEPARTMENT OF INTERIOR	3,444
DEPARTMENT OF TREASURY	2,410
U.S. POSTAL SERVICE	1,410
U.S. COURTS	345
DEPARTMENT OF STATE	336
DEPARTMENT OF TRANSPORTATION	100
OTHER AGENCIES	6,073

\$815,217

J081 BAG REPAIR SERVICES

U.S. POSTAL SERVICE

\$2,222,564

J084 EQUIPMENT ASSEMBLY SERVICES

DEPARTMENT OF DEFENSE

\$865,292

J099 MISCELLANEOUS REPAIR SERVICES

DEPARTMENT OF DEFENSE	\$5,715,019
GENERAL SERVICES ADMINISTRATION	18,419
BUREAU OF PRISONS	6,697
DEPARTMENT OF TRANSPORTATION	3,470

\$5,743,605

R604 MAIL/DISTRIBUTION SERVICES

SMALL BUSINESS ADMINISTRATION	\$50,005
SELECTIVE SERVICE SYSTEM	31,344
BUREAU OF PRISONS	27,622
DEPARTMENT OF DEFENSE	19,908
DEPARTMENT OF TRANSPORTATION	9,626
U.S. COURTS	6,666

\$145,171

S209 LAUNDRY SERVICES

DEPARTMENT OF DEFENSE	\$1,168,889
BUREAU OF PRISONS	7,229

\$1,176,118

T011 PRINT/BINDING SERVICES

THRIFT INVESTMENT BOARD	\$703,392
DEPARTMENT OF DEFENSE	292,765
DEPARTMENT OF TRANSPORTATION	292,084
GENERAL SERVICES ADMINISTRATION	285,325
BUREAU OF PRISONS	226,264
OFFICE OF PERSONNEL MANAGEMENT	206,104
DEPARTMENT OF JUSTICE	102,391
FEDERAL COMMUNICATIONS COMMISSION	51,747
U.S. COURTS	42,645
SMALL BUSINESS ADMINISTRATION	19,047
DEPARTMENT OF INTERIOR	12,352
U.S. POSTAL SERVICE	7,532
DEPARTMENT OF AGRICULTURE	6,527
DEPARTMENT OF VETS AFFAIRS	1,141
DEPARTMENT OF HUD	653
OTHER AGENCIES	293

\$2,250,262

T099 MISCELLANEOUS PRINTING

DEPARTMENT OF DEFENSE	\$918,718
DEPARTMENT OF TREASURY	113,809
BUREAU OF PRISONS	40,624
DEPARTMENT OF JUSTICE	6,145
DEPARTMENT OF AGRICULTURE	1,874
DEPARTMENT OF TRANSPORTATION	354
DEPARTMENT OF HHS	180

\$1,081,704

FY 1996 FPI SALES TO GOV'T AGENCIES

\$247,164,898

FY 1996 FPI SUBCONTRACTING ACTIVITIES

\$1,441,731

SHIPPING CHARGES

\$733,832

TOTAL FY 1996 FPI SALES

=====

\$249,340,461

=====

\$163,589,621.

65%

D.O.D.



U.S. Department of Justice

Federal Bureau of Prisons

Washington, DC 20534

August 5, 1996

The Honorable Jan Meyers
Chairwoman, Committee on Small Business
U. S. House of Representatives
Washington, DC 20515

Dear Madam Chairwoman:

Thank you for the opportunity to speak before the Committee on Small Business. I reviewed the enclosed transcript and have provided minor corrections for typographical errors. I have also enclosed several items that I agreed to provide, as well as information clarifying a couple of points for the record.

On page 51, a reference is made to Federal Prison Industries (FPI) deliberately scheduling Board of Directors hearings for the production of a new product or the expansion of an existing product while Congress is not in session. The reference is from an ill-advised comment contained in an internal memo written by a staff member who has no authority for the scheduling of FPI Board of Directors meetings. The Board hearings are scheduled by the Board in order to permit for product hearings to be held together, not to avoid Congressional involvement. FPI welcomes Congressional interest in and support of its operations and would never condone deceptive activity in this regard.

On page 56, Congressman Collins asked whether FPI reimbursed General Engineering Services, Inc., for the litigation costs incurred for their lawsuit against FPI. FPI did, in fact, reimburse General Engineering Services, Inc., for attorneys' fees.

On page 63, Mr. Francis, from Tennessee Apparel, estimated that FPI's increased production of work clothing approved by the Board of Directors would displace 4,500 apparel industry workers. The market study FPI conducted in support of the proposed production increase indicated that an additional 800 inmate jobs would be created. Since FPI is more labor intensive in its operations than the private sector, we have no idea where Mr. Francis' estimate came from, but it is clearly inaccurate.

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It is generally assumed, yet often misleading to do so, that sales by FPI will lead to direct job displacement in the industry in which FPI undertakes production. As indicated in the analysis FPI recently conducted, which Congressmen Petri and Hoekstra both included in the hearing record, FPI creates more civilian jobs than it displaces.

On page 73, you requested information concerning FPI partnership activities with small businesses. FPI works with small businesses through subcontracting opportunities, partnerships, and direct contracts for the purchase of raw materials and supplies. Specifically, FPI was a subcontractor to several small businesses providing such products and services as draperies, postal hamper inserts, and cable assemblies, in 1995. Fifty-seven percent of FPI's procurements for raw materials and supplies were awarded to small businesses in FY '95. Further, FPI is providing subcontracting partnership opportunities to small businesses in the areas of signage, remanufactured toner cartridges, and seating.

On page 99, I indicated that I would provide customer survey information for the record. Enclosed are several charts which summarize the results of a recent customer satisfaction survey about FPI's executive office furniture. As you will note, the customers indicated that the furniture was (1) delivered in good condition, (2) met their expectations, and (3) that they would order from FPI again.

I appreciate the chance to review the transcript and provide additional information. If you should have any questions, please do not hesitate to contact me.

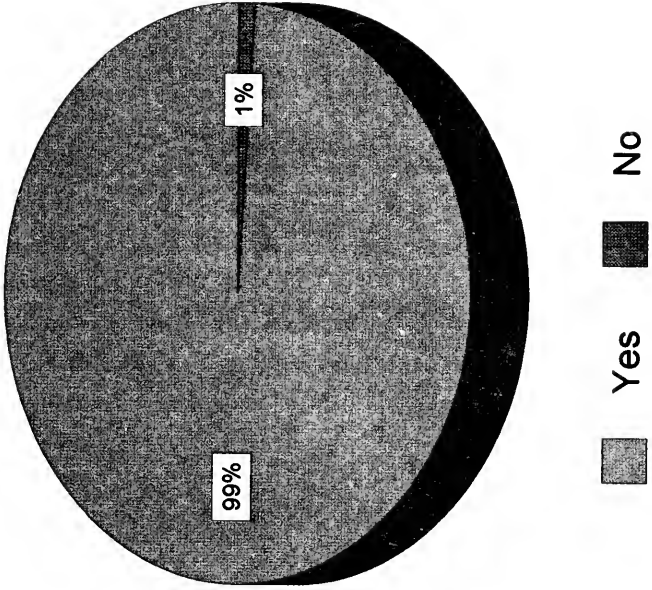
Sincerely,

for 
 Steve Schwalb
 Assistant Director
 Industries, Education, and
 Vocational Training

Enclosures

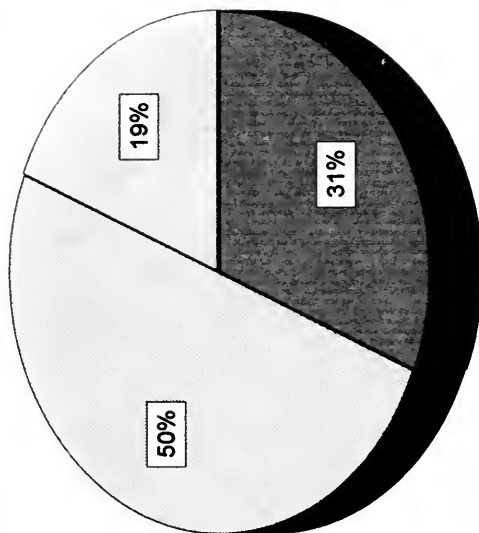
Allenwood Order Follow-up Survey

Did the furniture meet your expectations?



Allenwood Order Follow-up Survey

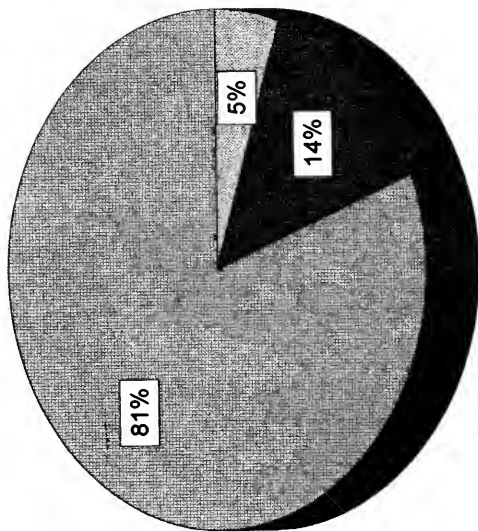
If shipping problem, was it difficult to resolve?



Yes No
No Comment

Allenwood Order Follow-up Survey

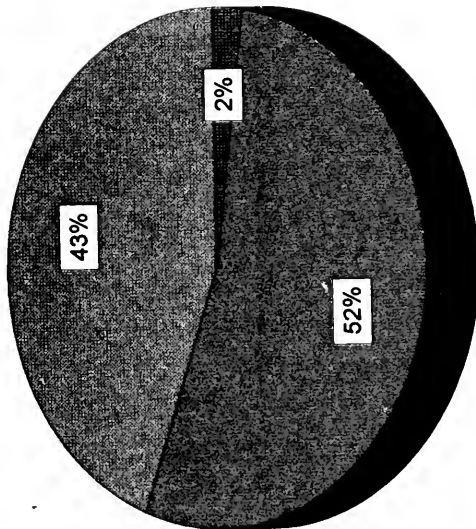
Was furniture received in good condition?



Yes No
No Comment

Allenwood Order Follow-up Survey

Was your shipment on time?





Federal Prison Industries

1995 ANNUAL REPORT



"Reengineering FPI For Our Customers"

MISSION STATEMENT

It is the mission of Federal Prison Industries to employ and provide skills training to the greatest practicable number of inmates in Federal correctional facilities necessary to ensure the safe and secure operation of such institutions, and in doing so, to produce market priced, quality goods in a self-sustaining manner that minimizes potential impact on private business and labor.

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ABOUT THE COVER

"Reengineering Federal Prison Industries, Inc. (FPI) For Our Customers" shows an FPI employee supervising three inmates in one of FPI's furniture refurbishing factories.



Printed on Recycled P

Foreword From The Attorney General



The Bureau of Prisons (BOP) provides vital support to the law enforcement initiatives of the Department of Justice. Through its ongoing efforts, the Bureau remains responsive to the pressures of constant growth in the inmate population by effectively managing America's Federal prison system. An immeasurable part of this successful effort is Federal Prison Industries (FPI), the Bureau's most essential correctional program. I am pleased to recognize FPI's accomplishments in providing meaningful employment and training opportunities for Federal inmates.

For over 61 years, FPI has remained a successful, self-sustaining operation. Day in and day out, FPI factories function without the use of appropriated funds from Congress -- a worthy accomplishment in these times of budgetary constraints and competing concerns of the American taxpayers.

FPI has a unique mission. While performing various functions, it also serves as a critical management tool to ensure safety for Federal inmates, the staff, and the community. It operates as (a) a **correctional program**, because it reduces idleness, stress, and eases overcrowding; (b) a **vocational program** because it promotes "real world" work habits and sound work ethics to help Federal offenders launch productive careers upon release; and (c) an **industrial program** because inmates produce a vast array of high-quality products and services for sale to the Federal Government.

It is projected that the Federal inmate population will continue to escalate as more inmates serve longer periods of incarceration for Federal convictions. Consequently, one of

the Bureau's challenges in the future will be managing a ballooning inmate population, estimated to grow from the current level of 90,000 to 117,000 by the year 2000. FPI will play a critical role in the BOP's efforts in this regard. I know that the BOP and FPI share my concern that we be especially vigilant in carrying out the statutory mandate that no single private industry bears an undue burden of competition from products made by FPI.

I congratulate FPI for its constant efforts to pursue new opportunities and explore innovative avenues that lead to growth in productive inmate work programs. FPI sells its products and services at current market prices, and it operates efficiently while maintaining a safe and productive correctional environment. For these reasons, our nation needs to give high priority to the continued support of FPI's mission.


Janet Reno



Message To The United States Congress From The Board Of Directors

The **Board of Directors** of Federal Prison Industries, Inc. (FPI) is proud to present the Fiscal Year 1995 Annual Report to the Congress of the United States. Established by an Act of Congress on June 23, 1934, FPI has successfully been accomplishing its mission to train and employ inmates under the jurisdiction of the Federal Bureau of Prisons (BOP), United States Department of Justice (DOJ).

The Board promotes FPI's mission as a correctional program and provides guidance to the Corporation by establishing general policies and long range corporate plans, and creating new industries.

***"Research analyses
document the positive
effects of training
and work experience
on Federal inmates
after their release
from prison."***

Since the Bureau's major correctional program for inmates is work, an extensive research study was designed to monitor and evaluate the effects of vocational training and work experience on ex-offenders. Research analyses document the positive effects of training and work experience on Federal inmates after their release from prison. For instance, male inmates employed by FPI were 20 percent less likely to recidivate than the comparison group members included in the research study.

The BOP uses inmate employment as a management tool to promote institutional safety and deter adverse effects of crowding. At the end of Fiscal Year 1995, FPI employed 16,780 Federal inmates in 97 factories. This represents 25 percent of the eligible inmate population housed in BOP facilities with FPI operations.

New Leadership

FPI's Board changed leadership during Fiscal Year 1995. The Board membership was transformed by the selection of a new Chairman, the appointment of a new Board member, and the departure of former Board members.

The Board expresses its deepest appreciation to Former Chairman Mark J. D'Arcangelo for his dedication and leadership during his four years of service to the Board. As a tribute of thanks to Chairman D'Arcangelo, the Board conferred the title of Chairman Emeritus to him for his relentless service and support for FPI's mission during his tenure.

The Board unanimously selected as its new Chairman, Joseph M. Aragon, who was initially appointed to the Board in August 1994, representing Retailers and Consumers. In May of 1995, Susan A. Loewenberg was appointed to the Board to represent Industry. At the same time, Board Vice Chairman William E. Morgan, who represents Agriculture, was reappointed to the Board. Director Kenneth Young, who had represented Labor since August 1994, resigned. Since the new Board membership continues to be

representative of the dominant and diverse areas of business and industry, the concerns of the private sector will continue to be woven into the fabric of the Board's decision making process. We are confident that the new leadership will successfully meet FPI's goals and address its future challenges.

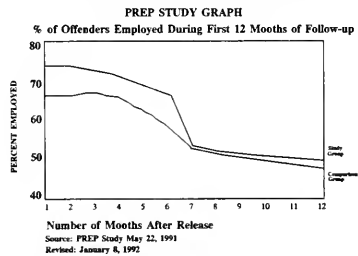
Social And Private Sector Benefits Derived From FPI's Mission

Providing Opportunities for Ex-Offenders

The long-term interests of society are met through FPI's mission to train and employ inmates. In order to transform Federal inmates into ex-offenders who are capable of and prepared to obtain meaningful jobs and launch respectable careers upon release into society, FPI provides opportunities to them to enhance and upgrade their training and education. Inmates are exposed to a real-life work environment, with progressive job assignments to develop good work ethics and attain marketable skills. Consequently, the financial burden on the taxpayer is reduced when the offender is released back into the community with the potential to become a productive member of society.

Proof of FPI's success as a correctional program is provided by the results of a five-year research study conducted by the Bureau's Office of Research and Evaluation. The study, the Post-Release Employment Project (PREP), was designed to measure the effects of prison work experience and vocational training on offenders' behavior once they are released back into our communities. The initial PREP Study

concluded that FPI inmates made better adjustment while incarcerated, had higher potential to find employment in the community, were less likely to recidivate, and earned higher



salaries than inmates with similar backgrounds who did not participate in prison industry training and work programs. The study has been updated to evaluate the released inmates in the past seven years since the initial study was completed. The updated results indicate that some statistically significant difference between the inmate groups studied has remained valid, for a total post-release duration ranging from eight to 12 years. Since the majority of all Federal inmates are eventually released back into the community, members of our society are the ultimate witnesses of FPI's value as a tool to convert Federal offenders into productive citizens.

FPI Waivers: Potential Sales Revenue for the Private Sector

Although Congress granted a procurement preference to FPI as a mandatory

purchasing source for the Federal Government, waivers are often granted by FPI to Federal Government buyers, authorizing them to procure from other sources. Waivers are granted when FPI cannot meet the current market prices or required delivery dates; match an existing product; or satisfy the customer's technical specifications. During Fiscal Year 1995, FPI processed 9,357 waiver requests and approved 80 percent, resulting in \$383.4 million in potential sales revenue being diverted to the private sector.

Cultivating A Positive Relationship with the Private Sector

In conjunction with its other duties, the Board of Directors is mandated to administer FPI product and service industries while minimizing any adverse impact on private sector businesses with similar product and service interests. The Board is extremely sensitive to this issue and is committed to cultivating positive relationships with the private sector. The Board must lead FPI through periods when the BOP is coping with constant population growth by promoting the

program's mission to train and employ inmates. At the same time, the Board is also obligated to monitor and balance the needs and concerns of the private sector, while recognizing FPI's procurement preference.

Through the efforts of FPI's Ombudsman, the lines of communication remain open to resolve private sector concerns, and these concerns are relayed to the Board and FPI's key decision makers.

Redirecting Revenue to Private Sector Communities and Businesses

Since FPI's 97 factories are geographically located throughout our nation's local communities in 27 states, a neighborhood network is automatically created. FPI's staff and their families are a part of their local community, volunteering in its civic groups, attending its schools, and purchasing goods and services from local businesses with their FPI salaries. FPI's sales revenue is also redirected back into the private sector communities through each factory's procurement process -- the purchase of raw material, supplies, equipment, and the use of local utility resources.

FPI's partnership initiatives during Fiscal Year 1995 also include sales growth with private sector businesses who have Federal Government contracts. An example of an FPI partnership initiative is its subcontract with Northrop Grumman, a major Department of Defense (DOD) prime contractor. FPI's Electronics Team won a subcontract with Northrop Grumman for the Vehicular Intercommunication System. Under this

How Each FPI Dollar is Expended



award, FPI will provide thousands of cable assemblies as the exclusive subcontractor. This award is significant because FPI successfully competed against private sector firms for this subcontracting opportunity with a DOD prime contractor.

We also contracted with several companies to perform data entry and optical character recognition editing. Additionally, FPI is producing metal components for companies which have contracts with the U.S. Postal Service and the General Services Administration.

Utilization of Small Businesses During Fiscal Years 1994 and 1995

In addition to FPI's statutory mandates, organizational structure, and series of partnership initiatives, FPI also strives to maintain a mutually beneficial relationship with the private sector, particularly as it relates to working with small businesses in local communities.

Recently, the Department of Justice recognized FPI as the DOJ component

that awarded the largest percentage of its Fiscal Year 1994 procurement dollars (\$191.2 million - 50.4 percent) to small businesses. FPI was also cited for support of small disadvantaged businesses and women-owned businesses.

During Fiscal Year 1995, FPI continued to support small businesses through its procurements. FPI awarded \$159.5 million (56.4 percent) of its procurement budget to small businesses, including small disadvantaged businesses, women-owned businesses, and minority-owned businesses.

Summary

As members of FPI's Board of Directors, we recognize the most difficult task for FPI this year was to balance its many competing mandates, while remaining focused on the purpose of Federal Prison Industries. We take pride in FPI's accomplishments during a time of unparalleled growth in our correctional system and shifting dynamics in our society.

John M. Arago

William E. Morgan

Stephen R. Colgate

Robert Q. Millham

Allen Savarick

Board Of Directors

Joseph M. Aragon (Chairman) Represents Retailers and Consumers

Appointed to the Board 8-8-94 Mr. Aragon founded and continues to serve as President and Chief Executive Officer of ProServe Corporation, an award-winning, growth oriented support services and management company. Prior to founding ProServe, Mr. Aragon was the Director of the U.S. Bureau of Prisons Training Academy for Food Service programs in correctional institutions. He is a graduate of Florida State University (B.S. in Management, 1978).

William E. Morgan (Vice-Chairman) Represents Agriculture

Appointed to the Board 5-26-66 Dr. Morgan is President Emeritus of Colorado State University. He has served on numerous commissions and committees as an economics and educational consultant, and as a Board member of nationally chartered financial institutions in Colorado and Wyoming. He is a graduate of Texas A&M (B.S., 1930) and the University of California (M.S., 1933).

Stephen R. Colgate (Member) Represents the Attorney General

Appointed to the Board 8-8-94 Mr. Colgate has been serving as Assistant Attorney General for Administration since 1992. He is a graduate of the American University (M.P.A. in Public Finance, 1976) and the University of Arizona (B.S., 1975).

Robert Q. Millan (Member) Represents the Secretary of Defense

Appointed to the Board 2-1-89 Mr. Millan was Chairman of the Board of First National Bank of Southwestern Ohio prior to his retirement in April 1986. He served on numerous committees including Chairman of the Ohio Prison Labor Advisory Board; Founder of Wilmington College Program at Lebanon Correctional Institution; and Director, National Council on Crime and Delinquency. He is a graduate of the University of Virginia (Economics, 1938), Graduate School (1939); Graduate School of Banking, Rutgers University (1951), and Xavier University, Graduate School of Corrections (1977).

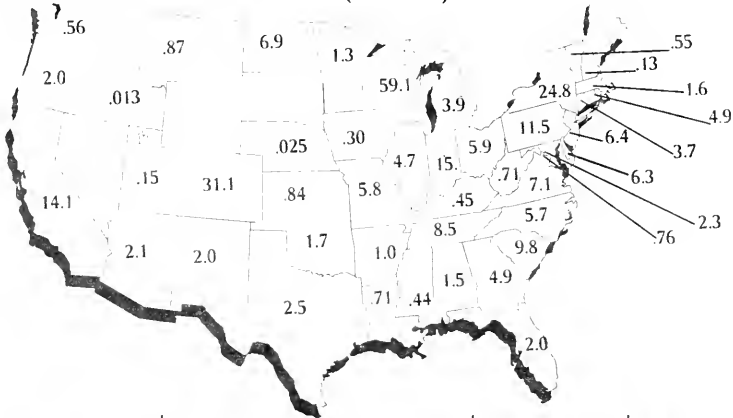
Susan A. Loewenberg (Member) Represents Industry

Appointed to the Board 5-10-95 Ms. Loewenberg has worked in the communications industry since 1974, and is currently the Production Director of L.A. Theatre Works. Ms. Loewenberg has been involved in correctional issues at the local, state, and Federal level. She has been actively involved in developing various innovative communications and educational training programs in Federal institutions nationwide, and the state prison system in California. Ms. Loewenberg currently supervises a program for at-risk-youth in collaboration with the Los Angeles County Board of Education, Special Schools Division for Incarcerated Youngsters. She is a graduate of Sarah Lawrence College.



Board of Directors, left to right: Joseph M. Aragon, Stephen R. Colgate, Susan A. Loewenberg, Robert Q. Millan, William E. Morgan

FPI Contracts Awarded To Private Sector FY 1995 (In Millions)



Alabama
\$1,540,000
* Montgomery
* Talladega

Alaska

Arizona

\$2,117,000

* Phoenix

* Safford

* Tucson

Arkansas

\$1,054,000

California

\$14,150,000

* Boron

* Dublin

* Lompoc

* Terminal Island

Colorado

\$31,173,000

* Englewood

* Florence

Connecticut

\$3,730,775

* Danbury

Delaware

\$6,329,000

District of Columbia

\$760,750

Florida

\$1,963,400

* Egin

* Marianna

* Miami

* Tallahassee

Georgia

\$4,861,000

* Atlanta

* Jesup

Hawaii

\$13,000

Idaho

\$4,704,500

* Greenville

* Marion

* Pekin

Indiana

\$14,968,000

* Terre Haute

Iowa

\$305,000

Kansas

\$836,000

* Leavenworth

Kentucky

\$453,000

* Lexington

* Ashland

* Manchester

Louisiana

\$710,000

* Oakdale

Maine

Maryland

\$2,338,000

* Cumberland

Massachusetts

\$1,596,087

Michigan

\$3,884,000

* Milan

Minnesota

\$1,341,000

* Duluth

* Rochester

* Sandstone

Mississippi

\$440,000

Missouri

\$5,776,000

Montana

\$871,000

Nebraska

\$25,000

Nevada

New Hampshire

\$128,000

New Jersey

\$6,411,548

* Fairton

* Ft. Dix

New Mexico

\$2,037,245

New York

\$24,817,400

* Otisville

* Ray Brook

North Carolina

\$5,734,000

* Butler

North Dakota

\$6,938,000

Ohio

\$5,902,000

Oklahoma

\$1,731,000

* El Reno

Oregon

\$2,067,000

* Sheridan

Pennsylvania

\$11,485,550

* Allenwood

* Lewisburg

* Loretto

* McKean

* Schuylkill

Rhode Island

\$4,863,000

South Carolina

\$9,830,000

* Estill

South Dakota

Tennessee

\$8,534,000

* Memphis

Texas

\$2,520,500

* Bastrop

* Big Spring

* El Paso

* Fort Worth

* La Tuna

* Seagoville

* Texarkana

* Three Rivers

Utah

\$151,000

Vermont

\$548,000

Virginia

\$7,109,000

* Petersburg

Washington

\$560,000

West Virginia

\$710,000

* Alderson

* Morgantown

Wisconsin

\$59,073,500

* Oxford

Wyoming

Legend

\$ Dollar Amount of

Contracts Awarded in

FY 1995

* FPI Locations

Joint Message From The Director Of The Federal Bureau Of Prisons And The Chief Operating Officer Of Federal Prison Industries

With the dual responsibilities of being officers of the Corporation and public stewards in the management of our Federal prisons, we especially appreciate FPI's accomplishments in Fiscal Year 1995. At the end of Fiscal Year 1995, the Bureau confined 90,159 Federal inmates in 83 Bureau-operated facilities. FPI employed 16,780 Federal inmates in 97 factories throughout our nation.

FPI promotes the work ethic and basic skills training by generating prison industry work to keep inmates productively occupied in work programs, while they are housed in our nation's crowded Federal prison system. To accommodate the influx of Federal inmates, FPI activated four new factories in 1995, and we project that 20 additional factories must be opened by the turn of the century.

"FPI promotes the work ethic and basic skills training by generating prison industry work to keep inmates productively occupied in work programs, while they are housed in our nation's crowded Federal prison system."

New Initiatives

Although FPI is first and foremost a correctional program, it must be customer service oriented to accomplish its goal of



FPI activated four new factories during Fiscal Year 1995 in the following locations, upper left to right: Greenville and Pekin, Illinois; lower left to right: Eglin AFB, Florida; Cumberland, Maryland.

keeping inmates productively occupied. As a mandatory source of procurement to the Federal Government, FPI has the responsibility to satisfy its customers. This responsibility extends to selling our products and services at prices comparable to current market value, while minimizing competition with private industry.

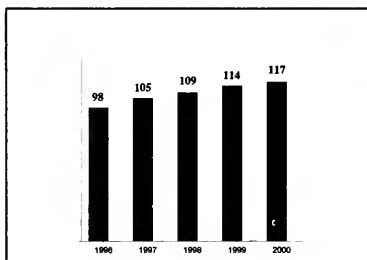
More than 150 different products and services are produced by FPI. This wide array of resources includes complex electronics equipment used to maintain America's national security, office furniture to match almost any decor, bedding and clothing to outfit our military personnel, signs and plaques to identify the most specific needs, protective eyewear, and metal storage equipment.

FPI continues to assess ways to **reengineer** its business functions and organizational structure to maximize its

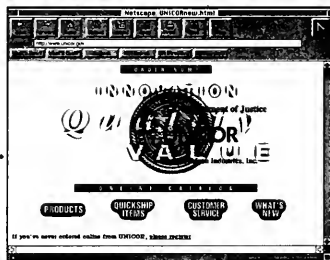
efficiency, while providing the best goods and services for its Federal customers.

Reengineering includes the development of procedures to make FPI's resources "accessible" to its customers and convenient for procurement, while using new and innovative ways to keep inmates employed. We are pleased to announce the following new initiatives implemented to advance the missions of both the Bureau and FPI.

- FPI implemented "one-stop" on-line shopping to make purchasing from FPI convenient through the Internet. During Fiscal Year 1995, FPI commenced its plan to design an **electronic catalog**. Customers can now easily browse through this electronic catalog and view the vast selection of products and services.



*Projected BOP Inmate Population
(in thousands)*



FPI's Electronic Catalog Screen



I.M.P.A.C. is a registered servicemark owned by Rocky Mountain BankCard System and used by FPI under authorization of Rocky Mountain BankCard System



FPI's QuickShip Logo

- **Punctual Delivery:** FPI had a reputation for being delinquent with the delivery of products for its Federal customers. The on-time delivery of products was identified as the single most important opportunity to improve customer satisfaction. A Delinquency Reduction Task Force was created to identify causes and to reengineer the ordering, manufacturing and delivery processes to achieve on-time delivery of FPI's products. The Task Force addressed many elements, ranging from cultural change, factory loading, procurement, contracting, delinquency reporting, and changes to internal operating procedures. This focus has reduced delinquencies by 53 percent during Fiscal Year 1995.
- In an effort to show customers our commitment to deliver products on time and avoid delinquent deliveries, we agreed to accept **liquidated damages**

clauses in contracts beginning October 1995. This means FPI is subject to a financial penalty for each day we are late with deliveries. This new initiative fosters confidence in our customers to rely on our ability to deliver on time.

- In March 1995, FPI made shopping easier for its customers by implementing the use of the International Merchant Purchase Authorization Card (I.M.P.A.C.). This **Government credit card** is used by FPI's customers to purchase goods and services from FPI. Using the credit card reduces time, paperwork, and cost associated with procurement. FPI accepts credit cards for all orders.
- The new **QuickShip Program** guarantees deliveries within 30 days. If deliveries exceed 30 days, FPI provides an automatic 10 percent discount on orders. The actual delivery time for

most products is well under 30 days; for instance, ergo chairs are delivered in an average of **nine days** after receipt of the order.

- FPI's commitment to total customer satisfaction extends to our **Escape Proof Guarantee**, adopted in Fiscal Year 1995. Under this guarantee, FPI promises to repair or replace any purchased item (at FPI's expense) which does not entirely meet its customers' expectations.
- In order to rapidly respond to requests for waivers and to personalize the review and decision making process,

the **waiver processing** functions were transferred from the FPI Central Office to our sales staff and our Customer Service Center in Lexington, Kentucky. This transfer reduced the period of time used to process waiver requests to an average of four days and keeps the lines of communication open between customers and our sales staff.

- **Design Advisory Council:** FPI established an advisory council of representatives from the Federal design community. During Fiscal Year 1995, these advisors worked closely with us to improve our products and services



Inmate trimming print products at an FPI print factory.

for our design customers, and exchanged information on specific product requirements. The first project of this partnership is the release of a new line of modular office furniture named **Symphony**. The line is composed of traditional pieces of office furniture combined in a modular fashion and is designed to meet any office requirement.

▪ **The Customer Advisory Group (CAG)**, established in Fiscal Year 1995, is comprised of Federal contracting officials who represent different agencies from across the country. The CAG meets regularly to identify problems and solutions to guide FPI in its quest to improve customer satisfaction.



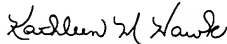
Symphony is a new line of modular office furniture. The line is composed of traditional pieces of office furniture combined in a modular fashion and is designed to meet any office requirement.

Fiscal Year 1995 has been a successful and productive one for FPI, earmarked by new initiatives designed to satisfy our Federal Government customers and accommodate inmate growth through its employment and

training programs. We look forward to a future filled with successful ways to advance FPI's mission and effectively address the challenges ahead.



Steve Schwalb
Assistant Director, Federal Bureau of Prisons
Chief Operating Officer, Federal Prison Industries



Kathleen M. Hawk
Director, Federal Bureau of Prisons
Chief Executive Officer, Federal Prison Industries



Officers of the Corporation, lower left to right: Lonnie M. Moore, Kathleen M. Hawk, Steve Schwalb, Andrea King-Wessels; upper left to right: Jack M. Rigsby, Glen Pommerening, Jan I. Hynson, James Copps; Ira B. Kirschbaum not pictured.

Report From The Ombudsman

Fiscal Year 1995 was a year of relationship building and enhanced communication with private industry, resulting in a better mutual understanding of the pressures faced by all to sustain operations, growth objectives, and our distinct missions, while responding to the procurement and service-related needs of Federal customers. Through this association, it has become apparent that the creation of partnering opportunities between Federal Prison Industries (FPI) and the private sector could prove mutually beneficial. For example, work performed directly for industry, such as component part production, would help achieve FPI's inmate employment objectives, while freeing up more of the finished goods market for private sector sales.

Federal customers are legally obligated to procure from FPI those items listed in its Schedule of Products, provided delivery and other technical requirements specified by the customer can be met. Otherwise, FPI issues written clearance (waiver approval) which authorizes the customer to procure the item(s) from the private sector. As partnering

activities grow, inmate and staff resources will be devoted to these efforts. Thus, waiver approval levels will rise in relation to the volume of work sustained through partnering, and increased sales opportunities should open for private industry, resulting in a "win/win" solution.

Speaking of waivers, during Fiscal Year 1995, FPI received more than \$477 million in waiver requests and approved 80 percent, resulting in \$383.4 million in potential business being redirected to the private sector. There were 193 customers who exercised their rights to appeal waiver denials, and of the \$44.5 million in disputed decisions I reviewed, \$22.7 million was redirected to the private sector.

Looking forward to Fiscal Year 1996, I will continue to explore partnering opportunities. Success will be predicated on finding willing partners, identifying meaningful work that can be realistically performed in a corrections environment, and FPI's ability to meet the production turnaround and commercial quality standards required by industry, to which FPI is strongly committed.



Jan I. Hynson
Ombudsman

**Industrial Programs
Locations, Inmate Employment, and Net Sales
as of September 1995**

(Dollars in Thousands)

Clothing and Textiles	Electronics	Furniture	Metals	Graphics and Services
<ul style="list-style-type: none"> • Alderson, WV • Atlanta, GA • Bastrop, TX • Butner, NC • Dublin, CA • Fort Dix, NJ • Greenville, IL • Jesup, GA • Leavenworth, KS • Manchester, KY • Miami, FL • Oakdale, LA • Otisville, NY • Ray Brook, NY • Safford, AZ • Sandstone, MN • Seagoville, TX • Terre Haute, IN • Tucson, AZ 	<ul style="list-style-type: none"> • Big Spring, TX • Boron, CA • Danbury, CT • Estill, SC • Fairton, NJ • Lexington, KY • Lompoc, CA • Loretto, PA • Marion, IL • Memphis, TN • Oxford, WI • Petersburg, VA • Phoenix, AZ • Rochester, MN • Three Rivers, TX 	<ul style="list-style-type: none"> • Allenwood, PA • Ashland, KY • Bastrop, TX • Dublin, CA • Florence, CO • Leavenworth, KS • Lompoc, CA • Marianna, FL • McKean, PA • Morgantown, WV • Schuylkill, PA • Seagoville, TX • Sheridan, OR • Talladega, AL • Tallahassee, FL • Texarkana, TX • Three Rivers, TX 	<ul style="list-style-type: none"> • Bastrop, TX • El Reno, OK • La Tuna, TX • Lewisburg, PA • Milan, MI • Pekin, IL • Terminal Island, CA 	<ul style="list-style-type: none"> • Alderson, WV • Butner, NC • Cumberland, MD • Dublin, CA • Eglin, FL • Fairton, NJ • Fort Dix, NJ • Fort Worth, TX • La Tuna, TX • Leavenworth, KS • Lexington, KY • Lompoc, CA • Marianna, FL • Montgomery, AL • Petersburg, VA • Ray Brook, NY • Sandstone, MN
Inmates Employed:†				
4807	3205	3877	1642	1624
Net Sales:				
\$ 99,831	\$ 104,597	\$ 178,077	\$ 39,703	\$ 36,940

Some locations have multiple plants.

† The total number of inmates employed by Federal Prison Industries as of September 1995 was 16,780. This includes 1,625 inmates employed in support positions.

REPORT OF MANAGEMENT

Responsibility for the integrity and objectivity of the financial information in this report rests with the management of Federal Prison Industries, Inc. The accompanying financial statements have been prepared to conform with generally accepted accounting principles.

To ensure the integrity of financial data, FPI management maintains a system of internal accounting controls. The system provides reasonable assurance that transactions have management authorization and are properly recorded. It also safeguards, verifies, and maintains accountability of assets and permits preparation of financial statements that conform with generally accepted accounting principles. This system of internal controls is subject to periodic reviews by both management and FPI's independent auditors.

Internal accounting and administrative control systems have been reviewed and tested. Accordingly, FPI management provides the following assurances:

1. There are sufficient controls and security measures to compensate for any identified risks associated with the program/system and/or its environment,
2. The program/system is being operated in an effective manner and complies with applicable laws and regulations,
3. There is proper management of the program/system information, and
4. The program/system complies with management, financial, information resources management, accounting, budget and other appropriate standards.

The independent auditing firm of Urbach Kahn & Werlin PC is retained to audit FPI's financial statements. The role of independent auditors is to provide an objective review of management's responsibilities to fairly report operating results, cash flows and financial position. The independent auditor's reports are presented on the following pages. The report on the fairness of the presentation of the financial statements is unqualified.

The independent auditor included a review of internal accounting controls, tests of accounting records and other procedures which they considered necessary to form an opinion of the fairness of the presentation of the financial statements.

Although management may periodically adopt certain cost-effective recommendations made by the independent auditors to further strengthen FPI's system of internal controls, management believes that FPI's internal and accounting control system is accomplishing its objectives.

Kathleen M. Hawk
Director, Federal Bureau of Prisons
Chief Executive Officer, Federal Prison Industries



Urbach Kahn & Werlin PC
CERTIFIED PUBLIC ACCOUNTANTS

**Independent Auditor's Report
on the Principal Financial Statements**

Office of the Inspector General
United States Department of Justice

Board of Directors
Federal Prison Industries, Inc.

We have audited the accompanying statements of financial position of Federal Prison Industries, Inc. (FPI) as of September 30, 1995 and 1994, and the related statements of operations and cumulative results of operations, and cash flows for the years then ended. These principal financial statements are the responsibility of FPI's management. Our responsibility is to express an opinion on these principal financial statements based on our audits.

We conducted our audits in accordance with generally accepted auditing standards, *Government Auditing Standards* issued by the Comptroller General of the United States, and Office of Management and Budget (OMB) Bulletin 93-06, *Audit Requirements for Federal Financial Statements*. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the principal financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the principal financial statements referred to above present fairly, in all material respects, the financial position of FPI as of September 30, 1995 and 1994, and the results of its operations and its cash flows for the years then ended in conformity with generally accepted accounting principles.

In accordance with *Government Auditing Standards*, we have also issued a report dated January 5, 1996 on our consideration of FPI's internal control structure and a report, also dated January 5, 1996, on its compliance with laws and regulations.

URBACH KAHN & WERLIN PC

Washington, DC
January 5, 1996

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1444 Eye Street NW, Washington, DC 20005 (202) 296-2030 FAX (202) 223-8488
Worldwide Coverage through Urbach Kahn & Werlin International



Urbach Kahn & Werlin PC
CERTIFIED PUBLIC ACCOUNTANTS

Independent Auditor's Report on Internal Control Structure

Office of the Inspector General
United States Department of Justice

Board of Directors
Federal Prison Industries, Inc.

We have audited the principal financial statements of Federal Prison Industries, Inc. (FPI) as of and for the year ended September 30, 1995, and have issued our report thereon dated January 5, 1996.

We conducted our audit in accordance with generally accepted auditing standards, *Government Auditing Standards* issued by the Comptroller General of the United States, and Office of Management and Budget (OMB) Bulletin 93-06, *Audit Requirements for Federal Financial Statements*. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the principal financial statements are free of material misstatement.

The management of FPI is responsible for establishing and maintaining an internal control structure. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of internal control structure policies and procedures. The objectives of an internal control structure are to provide management with reasonable, but not absolute, assurance that assets are safeguarded against loss from unauthorized use or disposition, and that transactions are executed in accordance with management's authorization and recorded properly to permit the preparation of financial statements in accordance with generally accepted accounting principles. Because of inherent limitations in any internal control structure, errors or irregularities may nevertheless occur and not be detected. Also, projection of any evaluation of the structure to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that the effectiveness of the design and operation of policies and procedures may deteriorate.

In planning and performing our audit of the financial statements of FPI for the year ended September 30, 1995, we obtained an understanding of the internal control structure. With respect to the internal control structure, we obtained an understanding of the design of relevant policies and procedures and whether they have been placed in operation, and we assessed control risk in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide an opinion on the internal control structure. Accordingly, we do not express such an opinion.

Our consideration of the internal control structure would not necessarily disclose all matters in the internal control structure that might be material weaknesses under standards established by the American Institute of Certified Public Accountants. A material weakness is a condition in which the design or operation of one or more of the specific internal control structure elements does not reduce, to a relatively low level, the risk that errors or irregularities in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control structure and its operation that we consider to be material weaknesses as defined above.

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**Independent Auditor's Report
on Internal Control Structure, Continued**

We did, however, note other matters involving the internal control structure and its operation that we have reported to the management of FPI.

This report is intended for the information of the Office of the Inspector General, United States Department of Justice, and the Board of Directors and management of FPI. However, this report is a matter of public record and its distribution is not limited.

URBACH KAHN & WEINSTEIN PC

Washington, DC
January 5, 1996



**Independent Auditor's Report
on Compliance with Laws and Regulations**

Office of the Inspector General
United States Department of Justice

Board of Directors
Federal Prison Industries, Inc.

We have audited the principal financial statements of Federal Prison Industries, Inc. (FPI) as of and for the year ended September 30, 1995, and have issued our report thereon dated January 5, 1996.

We conducted our audit in accordance with generally accepted auditing standards, *Government Auditing Standards* issued by the Comptroller General of the United States, and Office of Management and Budget (OMB) Bulletin 93-06, *Audit Requirements for Federal Financial Statements*. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the principal financial statements are free of material misstatement.

Compliance with laws and regulations applicable to FPI is the responsibility of FPI's management. As part of obtaining reasonable assurance about whether the principal financial statements are free of material misstatement, we performed tests of FPI's compliance with certain provisions of applicable laws and regulations. However, the objective of our audit of the principal financial statements was not to provide an opinion on overall compliance with such provisions. Accordingly, we do not express such an opinion.

The results of our tests disclosed no instances of noncompliance that are required to be reported herein under *Government Auditing Standards*.

This report is intended for the information of the Office of the Inspector General, United States Department of Justice, and the Board of Directors and management of FPI. However, this report is a matter of public record and its distribution is not limited.

URBACH KAHN & WERLIN PC

Washington, DC
January 5, 1996

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Federal Prison Industries, Inc.

Statements of Financial Position

September 30 (DOLLARS IN THOUSANDS)	1995	1994
Assets		
Current:		
Cash and cash equivalents	\$ 75,087	\$ 53,504
Accounts receivable, net	64,449	62,901
Inventories, net	88,472	80,946
Other current assets	991	8,214
	228,999	205,565
Property and equipment, net	132,779	137,606
	\$361,778	\$343,171
Liabilities and U.S. Government Equity		
Current:		
Accounts payable	\$ 27,014	\$ 26,792
Advances from customers	41,049	37,726
Accrued salaries and wages	6,418	5,915
Accrued annual leave	5,598	5,122
Other accrued expenses	3,575	3,348
	83,654	78,903
Loan payable to U.S. Treasury	20,000	20,000
Total liabilities	103,654	98,903
U.S. Government Equity		
Initial capital	4,176	4,176
Donated property	1,058	1,020
Cumulative results of operations	252,890	239,072
	258,124	244,268
	\$361,778	\$343,171

See notes to financial statements.

Federal Prison Industries, Inc.

Statements of Operations and Cumulative Results of Operations

<i>Years Ended September 30</i> <i>(DOLLARS IN THOUSANDS)</i>	1995	1994
Net sales	\$459,148	\$394,901
Other income	3,537	8,617
Total income	462,685	403,518
Cost of goods and services sold	416,401	358,986
Gross profit	46,284	44,532
Selling and administrative expenses	32,466	34,337
Net income	13,818	10,195
Cumulative results of operations, beginning of year	239,072	228,877
Cumulative results of operations, end of year	\$252,890	\$239,072

See notes to financial statements.

Federal Prison Industries, Inc.

Statements of Cash Flows

<i>Years Ended September 30</i> <i>(DOLLARS IN THOUSANDS)</i>	1995	1994
CASH FLOWS FROM OPERATING ACTIVITIES		
Cash received from customers	\$490,065	\$410,365
Cash paid to suppliers	(338,640)	(263,549)
Civilian and inmate payrolls	(125,535)	(117,195)
Interest income	1,871	118
Net cash provided by operating activities	27,761	29,739
CASH FLOWS FROM INVESTING ACTIVITIES		
Purchase of machinery and equipment	(1,768)	(5,884)
Purchase of building and improvements	(6,504)	(9,182)
Reimbursements from Bureau of Prisons	2,094	-
Cash used in investing activities	(6,178)	(15,066)
Net increase in cash and cash equivalents	21,583	14,673
Cash and cash equivalents, beginning of year	53,504	38,831
Cash and cash equivalents, end of year	\$ 75,087	\$ 53,504
SCHEDULE RECONCILING NET INCOME TO NET CASH PROVIDED BY OPERATING ACTIVITIES		
Net income	\$ 13,818	\$ 10,195
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation	9,508	8,769
Accrual of annual leave	476	353
Net gain on disposals of assets	1,535	165
Changes in:		
Accounts receivable	(1,548)	(5,311)
Inventories	(6,855)	(6,313)
Other current assets	6,552	(7,712)
Accounts payable	222	8,797
Advances from customers	3,323	20,775
Accrued salaries and wages	503	601
Other accrued expenses	227	(580)
Net cash provided by operating activities	\$ 27,761	\$ 29,739

See notes to financial statements.

Note 1.
Organization and
Mission

Federal Prison Industries, Inc. (FPI) was established in 1934 by an act of Congress. FPI operates under the trade name UNICOR, as a wholly-owned federal government corporation within the United States Department of Justice, and functions under the direction and control of a six member Board of Directors. The members, appointed by the President, represent retailers and consumers, agriculture, industry, labor, the Attorney General, and the Secretary of Defense. FPI's statutory mandate is to provide employment and training for inmates in the federal prison system while remaining self-sufficient through the sale of its products and services.

FPI's customers consist exclusively of federal government departments and agencies, such as the Department of Defense, General Services Administration and the Department of Veterans Affairs. These and other federal organizations are required to purchase products from FPI, if its products meet the customers' price, quality, and delivery standards, under a mandatory source preference specified in FPI's enabling statute and the Federal Acquisition Regulation.

At September 30, 1995, FPI had industrial operations at 97 factories located at 57 facilities within the federal prison system. FPI's factories employed approximately 16,780 inmates at September 30, 1995, representing approximately 18% of the total federal inmate population.

Note 2.
Summary of Significant
Accounting Policies

Financial Statement Presentation - The accompanying financial statements, which are prepared on the basis of generally accepted accounting principles, include each of FPI's industrial facilities located throughout the federal prison system and FPI's central administrative offices located in Washington, DC. All significant interfacility and interfactory transactions, including profits, have been eliminated for financial reporting purposes.

Cash and Cash Equivalents - Cash and cash equivalents are comprised of cash and short-term repurchase agreements with the U.S. Department of Treasury. The market value of the repurchase agreements is equivalent to cost. Interest income approximated \$1,871,000 during the current fiscal year. Certain portions of the cash and cash equivalent balances have been internally restricted to provide a sinking fund for future loan repayments (see Note 5) and to fund future purchases of inventory related to customer advances.

Accounts Receivable - Accounts receivable consist of amounts due from federal government departments and agencies. Accounts receivable, as presented in the statements of financial position, are stated net of an allowance for doubtful accounts in the amounts of \$1,637,000 and \$3,157,000 at September 30, 1995 and 1994, respectively.

Accounting for Contracts - A portion of FPI's sales are made under contracts using a percentage of completion method of accounting. FPI determines sales and gross profits based upon a unit of shipment basis. General and administrative costs are expensed as incurred. Revisions in estimated profits are made in the period in which the circumstances requiring the revision become known. Provisions are made currently for anticipated losses on uncompleted contracts.

Inventories - FPI states inventories at the lower of cost or market and utilizes a moving average cost method, based on first-in, first-out, for valuing raw material inventories. Work-in-process and finished goods inventories include the cost of raw materials, direct labor and production overhead. FPI records, as an inventory allowance (contra-asset) account, anticipated inventory losses for contracts where the estimated cost to manufacture the item exceeds the total sales price, as well as estimated losses for inventories which may not be utilized in the future. Inventories, as presented in the statements of financial position, are stated net of such allowances in the approximate amounts of \$3,824,000 and \$4,713,000 at September 30, 1995 and 1994, respectively.

Note 2.
Summary of Significant
Accounting Policies,
Continued

Property and Equipment - As more fully disclosed under Note 4, property and equipment, including significant improvements to existing facilities, are stated at cost, net of an allowance for accumulated depreciation. Repairs and maintenance costs are expensed as incurred. The straight-line method of depreciation is utilized to allocate the cost of property and equipment over their estimated useful lives, which range between 5 and 40 years.

Advances from Customers - FPI receives customer cash advances on certain contracts to fund significant raw material purchases. The unexpended portion of these advances approximated \$41,049,000 and \$37,726,000 at September 30, 1995 and 1994, respectively.

Accrued Leave: FPI's civilian employees are entitled to accrue annual leave (vacation and personal time) and sick time based on their years of service. Annual leave may be accrued up to 240 hours per employee and is payable based on the employee's annual salary at the time of separation. There is no maximum limit on sick time which may be accrued, however, any unused sick time is not paid to employees at the time of separation.

Taxes - As a wholly-owned corporation of the federal government, FPI is exempt from federal and state income taxes, gross receipts tax, and property taxes.

Reclassifications - Certain financial statement line items have been reclassified to conform with the current year's presentation.

Note 3.
Inventories

Inventories are comprised of the following:

September 30 (DOLLARS IN THOUSANDS)	1995	1994
Raw materials and factory supplies	\$ 57,203	\$ 51,611
Work-in-process	23,493	22,153
Finished goods	11,600	11,895
	92,296	85,659
Less inventory allowance (Note 2)	3,824	4,713
	\$ 88,472	\$ 80,946

Note 4.
Property and Equipment

Property and equipment is comprised of the following:

September 30 (DOLLARS IN THOUSANDS)	1995	1994
Machinery and equipment	\$ 73,195	\$ 78,169
Buildings and improvements	141,438	131,153
	214,633	209,322
Less accumulated depreciation	84,179	83,096
	130,454	126,226
Factory construction in progress	2,325	11,380
	\$132,779	\$137,606

Notes to Principal Financial Statements

Note 4.
Property and Equipment,
Continued

Property and equipment is carried at cost, net of accumulated depreciation. Donated property and equipment, which is recorded at appraisal value at the date of donation, principally relates to property and equipment transferred from the Federal Bureau of Prisons and other government sources. Included in property and equipment are non-operating facilities and equipment with a book value of approximately \$2,246,000 and \$1,841,000 as of September 30, 1995 and 1994, respectively, which are being held for sale or other disposition.

Depreciation expense approximated \$9,508,000 and \$8,769,000 for the years ended September 30, 1995 and 1994, respectively.

Note 5.
Loan Payable to
U.S. Treasury

During 1988, Congress granted FPI borrowing authority pursuant to Public Law 100-690. Under this authority, during fiscal year 1989, FPI borrowed \$20,000,000 from the U.S. Department of Treasury with a lump-sum maturity or optional renegotiation date of September 30, 1998. The funds received under this loan were restricted, by FPI's Board of Directors, for use in the construction of factories and the purchase of equipment. The loan accrues interest, payable March 31 and September 30 of each year, at 9.125% (the rate equivalent to the yield of U.S. Treasury obligations of comparable maturities which existed on the date of the loan). Accrued interest payable under the loan is either fully or partially offset to the extent FPI maintains non-interest bearing cash deposits with the U.S. Treasury. In this regard, there is no accrual of interest unless FPI's cash balance on deposit with Treasury falls below \$20,000,000. When this occurs, interest is calculated on the difference between the loan amount (\$20,000,000) and FPI's cash balance. The cash balance on hand at Treasury may differ from the cash balance in the statement of financial position due primarily to vouchers in transit.

The loan agreement provides for certain restrictive covenants and a prepayment penalty for debt retirements prior to 1998. Additionally, the agreement limits authorized borrowings in an aggregate amount not to exceed 25% of FPI's net equity.

There was no interest expense for the years ended September 30, 1995 and 1994.

Note 6.
Product Sales
Information

FPI's operations consist of five principal product programs. Sales information for the years ended September 30, 1995 and 1994 follows:

Net Sales	1995	1994
<i>(DOLLARS IN THOUSANDS)</i>		
Product Programs		
Metals	\$ 39,703	\$ 48,654
Furniture	178,077	146,540
Electronics/Plastics	104,597	86,236
Graphics/Services/Optics	36,940	37,774
Clothing/Textile	99,831	75,697
	\$459,148	\$394,901



Note 7.
Intragovernmental
Financial Activities

FPI's financial activities interact with and are dependent upon those of the Federal government as a whole. The following is a discussion of certain intergovernmental activities and their related interaction with FPI:

Relationship with the Federal Bureau of Prisons: FPI and the Federal Bureau of Prisons (BOP) have a unique relationship in that the nature of their respective missions requires the sharing of facilities and responsibilities relative to the custody, training and employment of federal inmates. The Director of the BOP serves as the Chief Executive Officer of FPI and the Chief Operating Officer of FPI serves as an Assistant Director of the BOP. The BOP provides land to FPI for the construction of its manufacturing facilities and both FPI and BOP share certain facilities, generally at no cost to FPI.

During fiscal year 1995, BOP reimbursed FPI for approximately \$2,094,000 in costs relating to construction and renovation projects at two facilities. FPI recorded this reimbursement as a reduction to the capitalized cost of buildings and improvements for the year ended September 30, 1995.

Separately, during December 1994, FPI recovered costs from BOP relating to certain non-recurring activities previously recorded in FPI's statements of operations. The costs, in the amount of \$7,684,000, resulted from mission changes initiated by BOP in response to changes in projected inmate population trends. FPI recorded this cost recovery as other current assets in the September 30, 1994 statement of financial position and as other income in the statement of operations for the year ended September 30, 1994.

Self Insurance: In accordance with federal government policy, FPI is uninsured with respect to property damage, product liability, and other customary business loss exposures. Losses incurred are absorbed as a current operating expense or, if they are induced by factors related to FPI's relationship with the prison system, may be reimbursed by BOP. Certain other costs, principally relating to personal injury claims, are paid directly by the federal government.

Federal Employees Compensation Act: The Federal Employees Compensation Act (FECA) provides income and medical cost protection to federal civilian employees injured on the job, employees who have incurred a work-related occupational disease, and beneficiaries of employees whose death is attributable to a job related injury or occupational disease. The U.S. Department of Labor (DOL), which administers FECA, annually charges each federal department and agency for its applicable portion of claims and benefits paid in the preceding year. During the fiscal years ended September 30, 1995 and 1994, such claims and benefits, as charged to FPI, approximated \$205,000 and \$251,000, respectively.

DOL also calculates the liability of the federal government for future claims and benefits, which includes the estimated liability for death, disability, medical, and other approved costs. Future claims and benefits are determined from an actuarial extrapolation, utilizing historical benefit payment patterns and calculations of projected future benefit payments discounted to current value. The amount of FPI's future liability is not expected to materially affect FPI's financial condition.

Retirement: Substantially all of FPI's civilian employees are covered under either the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS). For employees covered under CSRS (those employees hired prior to January 1, 1984), FPI withholds approximately 7 percent (for normal retirement) or 7½ percent (for hazardous duty retirement) of each employee's salary and contributes a matching amount to the fund. CSRS covered employees do not have Federal Insurance Contributions Act (FICA) withholdings and, thus, are not fully eligible to receive Social Security benefits. For employees covered under FERS (generally those employees hired on or after January 1, 1984), FPI withholds, in addition to FICA withholdings, approximately 1.3 percent of employee gross earnings, and matches such withholdings with a 7 percent contribution.

Note 7.
Intragovernmental
Financial Activities,
Continued

Under FERS, employees also receive retirement benefits from Social Security and, if applicable, benefits from a defined contribution plan (thrift). Under the thrift plan, an employee may contribute (tax deferred) up to 10 percent of salary to an investment fund. FPI then matches this amount up to 5 percent. Those employees which elected to remain under CSRS after January 1, 1984 continue to receive benefits in place, and may also contribute (tax deferred) up to 5 percent of their salary to the thrift plan, but with no matching amount contributed by FPI.

CSRS and FERS are multi-employer plans. Although FPI funds a portion of pension benefits relating to its employees, and provides for the necessary payroll withholdings, it does not maintain or report information with respect to the assets of the plans, nor does it report actuarial data with respect to accumulated plan benefits or the pension liability relative to its employees. The reporting of such amounts is the responsibility of the U.S. Office of Personnel Management.

FPI's contribution to both plans was approximately \$12,672,000 and \$11,795,000 for the years ended September 30, 1995 and 1994, respectively.

Health Benefits and Life Insurance: FPI, through the federal government, offers health and life insurance plans under which premium costs for health care are shared between FPI and the employees. A substantial portion of life insurance premiums are paid for by employees. Amounts paid by FPI for health care were approximately \$4,481,000 and \$4,171,000 for the years ended September 30, 1995 and 1994. FPI does not provide health care and life insurance benefits for retired employees.

Note 8.
Disclosure of the Fair
Value of Financial
Instruments

Under generally accepted accounting principles, FPI is required to disclose the estimated fair value of its financial instruments. A financial instrument is cash, evidence of ownership interest in an entity, or a contract which imposes on one entity a contractual obligation to deliver cash or other financial instruments to a second entity which has comparable contractual rights.

The carrying amounts of FPI's cash and cash equivalents, accounts receivable, and current liabilities all approximate fair value because of the short-term nature of these financial instruments. With respect to FPI's loan payable to the U.S. Treasury, the carrying amount of this obligation is calculated to approximate \$1.6 million less than fair value, if computed based on the September 30, 1995 quoted market price of similar yield and maturity U.S. Treasury obligations. However, assuming FPI's continued utilization of the interest offset provisions of this obligation (see Note 5), the carrying amount of this obligation is considered to be a reasonable estimate of its fair value.

Note 9.
Commitments and
Contingencies

Lease Commitments: FPI has various operating lease agreements for certain of its facilities, including its central office in Washington, DC. Under these agreements, total rent expense amounted to approximately \$1,642,000 and \$1,900,000 in the fiscal years ended September 30, 1995 and 1994, respectively. In addition, FPI leases certain equipment, both in Washington and at industrial facilities throughout the prison system, under operating leases which expire over extended periods of time. Many of these operating leases provide FPI with the option (after the initial lease term) to either purchase the equipment at the then fair value or to renew the lease for additional periods of time. Future commitments under all of these lease arrangements are not significant.

Notes to Principal Financial Statements

Note 9.
Commitments and
Contingencies,
Continued

Planned Construction: At September 30, 1995, various projects were in progress for the construction of new industrial facilities and the renovation of existing facilities. In this regard, BOP, on behalf of FPI, is planning to invest approximately \$13,150,000 during the next three years for the construction of buildings and improvements. In addition, during the next three years, FPI is planning to invest approximately \$14,900,000 for the purchase of machinery and equipment, and for the continued implementation of a new computer system.

Congressional Limitation on Administrative Expenses: Congress places an annual spending limit on certain administrative costs relating to FPI's central office (Washington, DC) management. These costs include salaries for management personnel, travel expenses and supplies. The following is a comparison of actual expenses to the limitation for the years ended September 30, 1995 and 1994:

Applicable Administrative Expenses (DOLLARS IN THOUSANDS)	1995	1994
Congressional limitation on expenses	\$3,463	\$3,395
Expenses subject to Congressional limitation	\$1,518	\$1,967

Note 10.
Subsequent Event

During December 1995, FPI entered into a contractual agreement to purchase a building to relocate its Washington, DC based Central Administrative Offices. The agreement provides for a purchase price for the building of \$17.1 million, to be paid in installments based upon the stage of completion of rework and interior construction. Through December 31, 1995, FPI paid \$1.6 million of the contract amount in accordance with the contract terms. The balance of the contract amount, which is currently expected to be funded from operating cash, will be due upon completion of the construction and acceptance by FPI. It is currently anticipated that the balance of the contract will be paid by December 1996.

Concurrent with this transaction, during December 1995, FPI also entered into a tentative agreement to lease a portion of the new building to BOP. The provisions and specific terms of the lease agreement have not been finalized.